

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
REVIEW OF ITS RULES FOR ELECTRICAL  
SAFETY AND SERVICE STANDARDS  
CONTAINED IN CHAPTER 4901:1-10 OF THE  
OHIO ADMINISTRATIVE CODE.

CASE No. 17-1842-EL-ORD

## FINDING AND ORDER

Entered in the Journal on February 26, 2020

### I. SUMMARY

{¶ 1} The Commission adopts amendments to Ohio Adm.Code Chapter 4901:1-10 regarding the Commission's rules for electrical safety and service standards.

### II. DISCUSSION

{¶ 2} R.C. 111.15(B) 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.

{¶ 3} On January 10, 2011, the Governor 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 properly 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} In addition, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must conduct a business impact analysis (BIA) regarding the rules. If there will be an adverse impact on business, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse

impact. Further, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative office the draft rules and the BIA.

{¶ 5} Furthermore, Amended Sub.H.B. 166 of the 133rd General Assembly, which became effective on October 17, 2019, adopted a new provision, codified at R.C. 121.95, which states that a state agency, including the Commission, cannot adopt a new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. In accordance with R.C. 121.95, and prior to January 1, 2020, the Commission identified rules having one or more regulatory restrictions that require or prohibit an action, prepared a base inventory of these restrictions in the existing rules, and submitted this base inventory to the Joint Committee on Agency Rule Review as well as posted this inventory on the Commission's website at <https://www.puco.ohio.gov/rules/inventory-of-regulatory-restrictions/>. With regard to the amendments discussed in this Order for Ohio Adm.Code 4901:1-10, we have satisfied the "2-for-1" threshold required by R.C. 121.95. The existing rule restriction inventory for Ohio Adm.Code 4901:1-10 identified 2,147 restrictions, and, after these amendments, Chapter 10 now consists of 2,135 restrictions, adding 12 restrictions while removing 24 restrictions.

{¶ 6} The Commission held a workshop in this proceeding on October 3, 2017, pursuant to Entry issued on September 1, 2017, in order to elicit feedback on Ohio Adm.Code Chapter 4901:1-10. The purpose of the workshop was to allow stakeholders to propose their own revisions to the rules for consideration.

{¶ 7} By Entry issued on July 17, 2019, the Commission requested comments and reply comments on Staff's proposed revisions to Ohio Adm.Code Chapter 4901:1-10.

{¶ 8} Pursuant to the Entry issued on July 17, 2019, written comments were filed on August 16, 2019, by Interstate Gas Supply, Inc. (IGS), The Dayton Power and Light Co. (DP&L), FirstEnergy Solutions Corp. (FES), Duke Energy Ohio, Inc. (Duke), Ohio Power Co. (AEP Ohio), Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co. (collectively, FirstEnergy), Ohio Partners for Affordable Energy (OPAE), the

Ohio Consumers' Counsel (OCC), The Retail Energy Supply Association and Direct Energy Business, LLC/Direct Energy Services, LLC (collectively, RESA/Direct). Buckeye Energy Brokers, Inc. (BEB) filed its initial comments on August 29, 2019. Reply comments were then filed on August 30, 2019, by AEP Ohio, DP&L, Trebel, LLC (Trebel), OPAE, FES, RESA/Direct, IGS, OCC, Republic Steel, and FirstEnergy.

{¶ 9} Lastly, before addressing the individual rules, we would like to thank all participants for their contributions toward the development of these rules and the insightful comments and reply comments submitted in this proceeding. In some instances, we will be making changes to the structure and content of the rules proposed by Staff, often at the suggestion of the comments that we have received. However, due to the volume of materials and time constraints, we will not attempt to address every issue or suggestion raised. In certain instances, we may have incorporated suggested changes into our rules or addressed concerns without expressly acknowledging the source of the suggestion in this Finding and Order. To the extent that a comment is not specifically addressed in this Finding and Order, it has been rejected.

### III. COMMENTS ON OHIO ADM.CODE CHAPTER 4901:1-10

#### A. *Ohio Adm.Code 4901:1-10-01 - Definitions*

{¶ 10} AEP Ohio, OCC, DP&L, IGS, Duke, FirstEnergy, and RESA/Direct each filed comments specifically regarding Staff's proposed rules in Ohio Adm.Code 4901:1-10-01. The majority of the comments are directed towards the definitions of "major event" in subsection (T) and "non-commodity good" or "non-commodity service" proposed as subsection (W). Also, various parties comment on whether other definitions should be added.

{¶ 11} AEP Ohio suggests clarifying the definition of "traditional meter" in proposed subsection (FF) by removing the qualifier, "with an analog or digital display" (AEP Ohio Comments at 2). In its reply, FirstEnergy supports AEP's proposed change since it eliminates confusion concerning the definition and recognizes smart meters' increased role in Ohio (FirstEnergy Reply Comments at 4).

{¶ 12} The Commission disagrees with AEP Ohio's recommendation for the definition of "traditional meter." AEP Ohio's revision could be interpreted to allow an electric utility to replace an analog or digital, non-emitting meter with an advanced meter that is enabled with only one-way communication. Some electric utility customers oppose the use of advanced meters and have used the advanced meter opt-out provisions in this Chapter and the EDUs' tariffs with the intention of keeping the analog or digital, non-emitting meter. At this time, and subject to the conclusions proffered under the section below addressing Ohio Adm.Code 4901:1-10-05, the Commission believes that customers' choice regarding retention of a properly functioning traditional meter should be respected; therefore, AEP Ohio's recommendation is rejected. However, the Commission notes that EDUs should not be limited in their ability to replace a customer's current traditional meter with another traditional meter, such as replacing an analog meter with a digital, non-emitting meter, when the EDU, in compliance with its advanced meter opt-out tariff and Ohio Adm.Code 4901:1-10-05, deems it appropriate.

{¶ 13} AEP Ohio, DP&L, and FirstEnergy argue that the Commission should reject Staff's proposed amendment to the definition of "major event" in proposed subsection (T), which requires the inclusion of transmission outages in computing the major event day threshold (AEP Ohio Comments at 1-2; DP&L Comments at 1; FirstEnergy Comments at 2-3). AEP Ohio and FirstEnergy argue that the minimum reliability performance standards as well as the majority of the reporting requirements found in Ohio Adm.Code 4901:1-10-10 and 4901:1-10-11 focus on distribution system performance, excluding major events. Since the focus of these provisions is the reliability and performance of the distribution system, transmission outages must be excluded from the computation of major events. (AEP Ohio Comments at 1-2; FirstEnergy Comments at 2-3.) DP&L argues that this change would require new performance standards to be established and that including transmission outages in the computation of major event unjustifiably departs from the precedent set in Case No. 06-653-EL-ORD where the Commission noted that " \* \* \* transmission outages and major events are reported separately and any inclusion of performance data during these events could unreasonably distort distribution performance. Therefore, performance

data during transmission outages or major events should not be included in the calculation of the indices, standards, or revised performance requirements.'" *In re the Commission's Review of Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25 of the Ohio Administrative Code*, Case No. 06-653-EL-ORD, Finding and Order (Nov. 5, 2008) at 12-13. Alternatively, if the changes are adopted, DP&L requests that the Commission permit utilities to file updated performance standards to reflect the change. (DP&L Comments at 1.) In their reply comments, AEP Ohio and FirstEnergy support DP&L's comments and each other's comments concerning this proposed amendment. (AEP Ohio Reply Comments at 1; FirstEnergy Reply Comments at 2).

{¶ 14} Though Duke opposes Staff's proposed amendment and agrees with the comments submitted by the other electric utilities, Duke does not oppose the concept of including transmission outages in the major event computation but cautions that including these transmission events will significantly affect future results when reported. If the amendment is adopted, Duke anticipates that, for purposes of existing commitments made in various stipulations and pursuant to Commission orders, the Commission will allow adjustment for the effects to demonstrate compliance with commitments without including transmission events. Duke also urges that, if adopted, the Commission should consider a more lenient standard deviation since transmission outages can be more volatile compared to distribution outages. Duke further asserts that the recommended change will require each utility to reopen standards-setting cases to reset standards. (Duke Comments at 1-2; Duke Reply Comments at 1-2.) In its reply, OCC states that it supports Staff's proposed amendment, claiming that the amendment would provide better reporting on the reliability of service received by customers. In response to AEP Ohio, FirstEnergy, and DP&L, OCC argues that the purpose of major event reporting is not solely for measuring distribution system performance but also concerns customers and their expectations. Further, OCC responds specifically to DP&L's claim that the proposed amendment deviates from Commission precedent by noting that the purpose of this case is to consider possible rule amendments. OCC agrees with Duke's position in that the Commission should consider all impacts of the proposed amendment. (OCC Reply Comments at 2-3.)

{¶ 15} The Commission disagrees with AEP Ohio, DP&L, and FirstEnergy. The proposed amendment better aligns the rules with the Institute of Electrical and Electronics Engineers' (IEEE) definition of "major event day" found in IEEE Guide for Electric Power Distribution Reliability Indices, IEEE Std. 1366-2012, May 31, 2012 (IEEE Guide), which does not specifically exclude transmission outages in the major event day threshold calculation. The Commission believes that the EDUs' concerns regarding the inclusion of transmission outages in this calculation are outsized compared to the actual, real-world effects this change incurs. Currently, Ohio Adm.Code 4901:1-10-10 requires EDUs to report annual reliability performance against standards after excluding major event days and transmission outages. An EDU's reliability performance during a year, measured against these set standards, is not affected by occurrences that qualify as a major event day or as transmission outages. To determine if a day qualifies as a major event day, Staff and utilities employ IEEE's 2.5 Beta Methodology described in the IEEE Guide, though the Commission currently deviates from this methodology by excluding transmission outages. This methodology requires a daily calculation of an electric utility's system average interruption duration index (SAIDI) (calculated by dividing customer-experienced outage minutes by the approximate number of customers on the system) that then is compared to a standardized major event day threshold, and any daily SAIDI that exceeds the threshold is classified as a major event day and excluded from performance standards. With the inclusion of transmission outages, the threshold that demarcates what outage circumstances are severe enough to be considered a major event day versus what outage circumstances do not qualify as a major event day will most likely increase. Understandably, EDUs are concerned that this higher major event day threshold will result in less major event days, which directly impacts their reported performance. However, typical major event day data has consistently shown that the daily SAIDI on days that have qualified as major event days is well-above the newly calculated threshold. Therefore, although SAIDI, on a given day, would have to be slightly higher to cross the major event day threshold, historical data has shown that the new threshold, when compared to the old calculation, will not significantly reduce the number of days that qualify as major event days. Therefore, the Commission adopts Staff's requested amendment.

{¶ 16} Furthermore, the Commission notes that it is not departing from the precedent quoted above by DP&L because major event days and transmission outages are still excluded from performance standards under Ohio Adm.Code 4901:1-10-10(B)(4)(c) and (C)(1); in addition, OCC is correct in that the purpose of this very case is to reassess all rules under Chapter 10. The Commission does, however, grant DP&L's request for EDUs to file updated reliability performance standards to reflect this change and orders EDUs to file a standards' case within six months of this Order, unless an EDU already has scheduled such a filing. Finally, the Commission rejects Duke's request that a more lenient standard deviation be implemented to buffer the change's effects. The Commission revised this rule to better align with IEEE's definition, which also requires a standard deviation of 2.5, so changing that portion of the definition makes little sense and would negate the intent of Staff's proposal to realign this measurement with the accepted, industry-wide standards.

{¶ 17} Duke argues that the proposal to add a definition for "non-commodity good" or "non-commodity service" in subsection (W) should be rejected, as should the separate proposed substantive provisions that would use this new definition, found in Ohio Adm.Code 4901:1-10-22 and 4901:1-10-33, for reasons set forth in comments under those rules (Duke Comments at 2).

{¶ 18} FirstEnergy does not object generally to the proposed definition provided in subsection (W) but states that, as is, the definition conflicts with FirstEnergy's Commission-approved corporate separation plan and tariff provisions. FirstEnergy suggests modifying the definition to include the phrase, "or product" after "tariffed service" to reflect consistency with phrasing in its plan, which allows a limited number of *products* and services pursuant to its existing tariff provisions. (FirstEnergy Comments at 3.) In its reply, IGS requests that the Commission reject FirstEnergy's suggestion, arguing that R.C. 4928.17(A) prohibits EDUs from directly offering non-electric products, so FirstEnergy's suggestion violates Ohio law (IGS Reply Comments at 2).

{¶ 19} RESA/Direct states that, while it does not philosophically object to such a definition, it believes the current wording of proposed subsection (W) is problematic as is

the current structure of prohibitions in Ohio Adm.Code 4901:1-10-22 and 4901:1-10-33 to which this definition is tied (RESA/Direct Joint Comments at 8-10). RESA/Direct believes that Staff's proposed definition equates to nonelectric product or service under R.C. 4928.17(A)(1), which RESA/Direct believes is shorthand for a product or service other than retail electric service, as "retail electric service" is defined under R.C. 4928.01(A)(27). Therefore, RESA/Direct advises that, and IGS offers this same suggestion, the definitional terms and definition itself in proposed subsection (W) should be revised to "nonelectric good" or "nonelectric service" meaning a good or service other than "retail electric service" found in R.C. 4928.01(A)(27). (RESA/Direct Joint Comments at 9; IGS Comments at 1-2.)

{¶ 20} The Commission declines to adopt Staff's current proposed definition of "non-commodity goods" and "non-commodity services." In its place, the Commission adopts the term, "non-jurisdictional services," meaning services which do not meet the definition of "retail electric service" under R.C. 4928.01(A)(27). The Commission believes this definition adequately captures the types of services intended by Staff and aligns with stakeholders' general criticism of Staff's proposed terms. While the placement of these charges on a utility bill are subject to the Commission jurisdiction, the services themselves fall outside of such jurisdiction. Further discussion regarding Staff's proposals regarding "non-commodity goods" and "non-commodity services" can be found under the sections addressing Ohio Adm.Code 4901:1-10-22 and 4901:1-10-33.

{¶ 21} Also, Staff proposes a definition for "prepaid service."

{¶ 22} As discussed further below in the substantive sections, the Commission, for the time being, finds that it is unnecessary to define "prepaid service."

{¶ 23} OCC suggests adding a definition for "momentary outage" and suggests that the definition match IEEE's definition for the term, as found in IEEE Guide for Electric Power Distribution Reliability Indices, IEEE Std. 1366-2012, May 31, 2012, meaning " \* \* \* an interruption in electric service with a duration less than five minutes" (OCC Comments at 1-2). OCC argues that momentary outages directly affect the reliability of electric service



provided to customers, with more momentary outages resulting in less reliable service to customers. OCC also proposes that revised service standards be adopted in Ohio Adm.Code 4901:1-10-10 to incorporate the measuring and reporting of momentary outages by utilities. (OCC Comments at 1-2.) AEP Ohio, DP&L, and FirstEnergy oppose OCC's recommendation and argue that the definition for momentary outage is unnecessary, as more fully described in their reply comments under Ohio Adm.Code 4901:1-10-10, and, therefore, OCC's suggestion should be rejected (AEP Ohio Reply Comments at 1; DP&L Reply Comments at 1; FirstEnergy Reply Comments at 3). AEP Ohio also notes that the proposed definition of "momentary outage" is duplicative of Ohio Adm.Code 4901:1-10-01(V), which provides the definition of "momentary interruption" (AEP Ohio Reply Comments at 1).

{¶ 24} The Commission agrees with AEP Ohio that the definition of "momentary outage" proposed by OCC is duplicative of Ohio Adm.Code 4901:1-10-01(V); therefore, the suggestion is rejected since the proposed definition is already addressed by subsection (V). Furthermore, the term "momentary outage" contradicts the already existing "momentary interruption" in that a momentary interruption is not considered an outage since an outage is considered longer than a momentary interruption. The Commission will more fully examine OCC's proposed performance standards under the section discussing Ohio Adm.Code 4901:1-10-10.

{¶ 25} DP&L recommends adding a definition for "outage messaging" to accommodate changes to Ohio Adm.Code 4901:1-10-09, defining the term to mean an automated message on the utility's Interactive Voice Response system that indicates that a large outage to the distribution system has occurred (DP&L Comments at 4).

{¶ 26} For reasons further described under the comment section for Ohio Adm.Code 4901:1-10-09, the Commission declines to adopt DP&L's recommendation for this additional definition.

{¶ 27} DP&L recommends adding a definition for “small commercial customer” because the term is referenced several times in Ohio Adm.Code 4901:1-10-12(I)(1) and 4901:1-10-29(F). DP&L recommends adopting the definition for this term found in Ohio Adm.Code 4901:1-13-01 and 4901:1-21-01, meaning a commercial customer which is not a mercantile commercial customer. (DP&L Comments at 2.) In its reply, AEP Ohio disagrees with DP&L in that DP&L’s proposed definition of “small commercial customer” is not an accurate classification of AEP Ohio’s customers since AEP Ohio has General Service—Medium/High Load Factor customers who are neither small commercial nor mercantile customers (AEP Ohio Reply Comments at 1-2).

{¶ 28} At this time, the Commission rejects DP&L’s recommendation to include a definition of “small commercial customer” in Chapter 10. “Small commercial customer” is mentioned in Chapter 10, specifically in Ohio 4901:1-10-12 and 4901:1-10-29, in relation to customers’ rights and obligations regarding CRES providers and EDUs’ coordination with CRES providers. The Commission believes it is more appropriate first to address the proper definition of this term in the CRES rules, such as in Ohio Adm.Code 4901:1-21, before potentially establishing a definition in Chapter 10. If a definition is eventually established in Chapter 21, EDUs may update their supplier tariff with the new definition.

{¶ 29} DP&L recommends adding a definition for “seamless move” to accommodate the decision issued in Case No. 14-2074-EL-EDI, where the Commission adopted a seamless move mechanism. *See In re the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3251-EL-COI, *In re the Market Development Working Group*, Case No. 14-2074-EL-EDI (*Market Development Working Group*), Finding and Order (Feb. 7, 2018) at 13. DP&L recommends that the definition be based on the Commission’s February 7, 2018 Finding and Order in that case, meaning “the transfer of an already negotiated CRES contract to the customer’s new address. Seamless move requires that the customer affirmatively choose that opportunity when contacting the EDU to transfer service.” *Market Development Working Group* at 13. If the definition is adopted, DP&L also recommends changes to Ohio Adm.Code 4901:1-10-12(F)(1), 4901:1-10-24(E)(1), and 4901:1-10-29(F)(1).

(DP&L Comments at 2.) IGS agrees with DP&L that a definition for “seamless move” should be included in the rules but suggests a different definition, one based on the Commission’s Finding and Order in *Market Development Working Group* at 2 (IGS Reply Comments at 9-10). In its reply, OCC opposes DP&L’s recommendation to adopt a definition for “seamless move” and DP&L’s proposed changes to other provisions. OCC argues that DP&L’s proposal would eliminate the consumer protection adopted by the Commission – requiring that consumers affirmatively choose to transfer service. (OCC Reply Comments at 4.) In their joint reply, RESA/Direct disagree with DP&L, stating that no definition is needed because the term is commonly understood. The requirements for a seamless move have already been established by the Commission in *Market Development Working Group*, so any technical implementation issues should be addressed in a workshop, not rulemaking. RESA/Direct argues that any final proposal should be based on a consensus, not DP&L’s unilateral decision. (RESA/Direct Joint Reply Comments at 7-8.)

{¶ 30} At this point in time, the Commission declines to adopt DP&L’s proposal to adopt a definition for “seamless move.” The Commission acknowledges RESA/Direct’s comment and OCC’s concerns. The Commission believes placing a definition and parameters in the rules is premature, possibly unintentionally preempting any near-future orders concerning EDUs’ seamless move plans. Especially after establishing the term and its parameters in *Market Development Working Group*, the Commission desires to study the implementation and effects of seamless moves in the market first before adopting additional consumer protections, if needed, in the rules. Consumer protection is of upmost importance, and the Commission will continue to monitor the development of seamless move plans and may propose rule changes when necessary.

**B. Ohio Adm.Code 4901:1-10-05 – Metering**

{¶ 31} AEP Ohio and FirstEnergy advise that Staff’s revision in subsection (B) should be changed from “2015” to “2014” to accurately reflect the ANSI C12.1 standard (AEP Ohio Comments at 3; FirstEnergy Reply Comments at 4).

{¶ 32} The Commission agrees with AEP Ohio's and FirstEnergy's comments that Staff's revision needs clarification. Therefore, the rule now reflects that "[m]eter accuracy shall comply with the 2014 version of ANSI C 12.1 standards."

{¶ 33} DP&L opposes part of Staff's amendment to proposed subsection (J)(1), specifically the portion that requires the utility to allow customers to retain their current traditional meter if they choose to opt out of advanced meter service. DP&L argues that, in situations where customers choose to opt out, the proposed language may prevent DP&L from exchanging an existing non-encoder receiver transmitter (ERT) compatible traditional meter that meets industry standards for accuracy and safety with an ERT meter. Accordingly, DP&L recommends that the Commission remove "the customer's current meter" and replace it with "traditional meter." (DP&L Comments at 2-3). AEP Ohio agrees with DP&L's proposal (AEP Ohio Reply Comments at 3). AEP Ohio also recommends that a sentence be added to proposed subsection (J)(1), stating that no utility shall be required to install metering equipment, or allow metering equipment to remain in service, that is not currently manufactured for the United States' market (AEP Ohio Comments at 3-4). In its reply, FirstEnergy does not support AEP Ohio's proposed addition to proposed subsection (J)(1), stating that the proposal is not supported by any meaningful rationale and would negatively affect FirstEnergy, who currently has meters in service that are no longer manufactured (FirstEnergy Reply Comments at 4-5). OCC argues that AEP Ohio's proposed addition is unnecessary because all meters must already comply with appropriate ANSI standards, no matter where or for what market the meter is manufactured. OCC also argues that the language may require the early retirement and replacement of properly functioning meters if a meter's model is not currently being manufactured for the U.S. market, thereby resulting in unjust and unreasonable charges. (OCC Reply Comments at 6.)

{¶ 34} The Commission declines to adopt Staff's proposed amendment to the latter part of subsection (J)(1), which would allow a customer to retain "the customer's current meter as long as it meets industry standards for accuracy and safety." The proposed language may result in confusion regarding whether an EDU may replace a customer's

existing traditional meter with another traditional meter. First, the Commission reiterates that a customer may retain the use of a traditional meter (i.e., analog or digital, non-emitting meter), if the customer so chooses, in accordance with the procedures outlined in Ohio Adm.Code 4901:1-10-05, which includes paying the cost-based, tariffed opt-out service. The Commission believes that the existing rule and Ohio Adm.Code 4901:1-10-05(B), requiring all meters to satisfy ANSI C 12.1 standards for accuracy, already contemplate the situation, even if rare, where an EDU accommodates a customer's request to retain the customer's existing traditional meter as long as the meter meets industry standards for accuracy and safety. At the same time, however, EDUs should not be limited in their ability to replace a customer's current traditional meter with another traditional meter, such as replacing an analog meter with a digital, non-emitting meter, when the EDU, in compliance with its advanced meter opt-out tariff and Ohio Adm.Code 4901:1-10-05, deems it appropriate. The existing rule accomplishes this balance between customers' and EDUs' interests and avoids casting doubt on an EDUs' ability to replace an existing traditional meter. Furthermore, the Commission rejects AEP Ohio's additional proposal and agrees with OCC that the addition is unnecessary because all meters must already comply with appropriate ANSI C 12.1 standards, no matter where or for what market the meter is manufactured.

{¶ 35} AEP Ohio recommends revising subsection (A) to clarify that the EDU should be responsible for determining if it is impractical to meter electrical energy delivered to its customers. (AEP Ohio Comments at 2). In its reply, FirstEnergy agrees with AEP Ohio's amendment, stating that it simplifies the analysis and gives the EDU an appropriate amount of discretion (FirstEnergy Reply Comments at 4). OCC disagrees with AEP Ohio's proposed amendment, arguing that the current rule successfully accomplishes the goal of recognizing that metering is sometimes impractical. OCC argues that AEP Ohio's amendment would provide EDUs with unfettered discretion when determining which customers are impractical to be metered. (OCC Reply Comments at 4-5.)

{¶ 36} The Commission agrees with OCC and does not see the need for AEP's proposed amendment to subsection (A). If an EDU desires such a specified provision, then it can do so by filing a tariff amendment.

{¶ 37} AEP Ohio also recommends, which FirstEnergy supports, adding a new subsection, subsection (G), that specifically addresses net metering customers and permits a utility to install a device capable of measuring the output of certain customer-owned generation systems (AEP Ohio Comments at 3; FirstEnergy Reply Comments at 4). OCC opposes AEP Ohio's suggested amendment, arguing that net metering rules are addressed in Ohio Adm.Code 4901:1-10-28, which the Commission did not issue for comment; therefore, including a net metering rule is inappropriate in this proceeding. Furthermore, OCC argues that the amendment conflicts with R.C. 4928.67(B)(1), which requires net metering be accomplished using a single meter capable of registering the flow of electricity in two directions, something both the mechanical and advanced meters deployed in Ohio are capable-of. (OCC Reply Comments at 5.)

{¶ 38} The Commission agrees with OCC in that rules considering net metering are addressed in Ohio Adm.Code 4901:1-10-28, which has not been opened for rulemaking. Accordingly, adopting AEP Ohio's proposed amendment is inappropriate in this proceeding and can be considered, instead, in the proper forum at the proper time.

{¶ 39} AEP Ohio also recommends including net metering customers and customers who pose a safety risk to the public, utility employees or representatives, and/or utility equipment within the enumerated list found in subsection (J)(4), the rule allowing an EDU to refuse to provide advanced meter opt-out service in certain circumstances (AEP Ohio Comments at 4). FirstEnergy supports AEP Ohio's amendment because FirstEnergy believes it promotes safe and efficient operations, and DP&L supports the amendment, stating that the amendment is consistent with the waivers already granted to both AEP Ohio and DP&L in Case Nos. 16-1773-EL-WVR and 18-1257-EL-WVR, respectively (FirstEnergy Reply Comments at 4; DP&L Reply Comments at 2). *In re the Application of Ohio Power Company for a Limited Waiver of Ohio Adm.Code 4901:1-18-06(A)(2)*, Case No. 16-1773-EL-WVR

(*AEP Ohio Waiver*), Entry (Feb. 8, 2017); *In re the Application of The Dayton Power and Light Company for a Limited Waiver of Ohio Adm.Code 4901:1-18-06(A)(2)*, Case No. 18-1257-EL-WVR (*DP&L Waiver*), Entry (June 19, 2019). OCC opposes AEP Ohio's recommendation to include net metering customers in subsection (J)(4) because new metering rules should be addressed in a rulemaking proceeding for Ohio Adm.Code 4901:1-10-28, which the Commission has not opened. Plus, OCC argues that the proposal conflicts with R.C. 4928.67(B)(1), which prohibits net metering customers from refusing or opting out of an advanced meter, since mechanical meters can satisfy the net metering requirements. For "code-red" customers, OCC argues that a waiver-filing for customers who pose a safety hazard is more appropriate than a blanket prohibition since a waiver application will allow Staff and stakeholders the opportunity to review the reasons the utility alleges for denying a consumer protection. (OCC Reply Comments at 6-7.)

{¶ 40} First, the Commission rejects AEP Ohio's proposal with regard to net metering customers because provisions addressing this issue are contained in each EDU's tariff, making a provision here duplicative and unnecessary. The Commission also views AEP Ohio's recommendation to include a provision regarding "Code Red" customers as unnecessary. Generally, as defined in the waiver cases above, AEP Ohio and DP&L describe "Code Red" customers as customers who have previously acted violently or aggressively towards employees or utility equipment. *See AEP Ohio Waiver* at 1; *DP&L Waiver* at 1. Ohio Adm.Code 4901:1-10-05(J)(4)(a) and (b) enable a utility to refuse an advanced meter opt-out when it would create a safety hazard to the public or utility personnel/facilities or enable refusal when a customer does not allow an employee or agent to access the meter. The Commission believes current subsection (J)(4)(a) and (b) provide a protocol for Code Red customers; therefore, the Commission rejects AEP Ohio's suggestion as duplicative. The Commission notes that the above waiver cases requested waiver of Ohio Adm.Code 4901:1-18-06(A)(2), which requires utilities to provide a residential customer with personal notice on the day of disconnection service due to non-payment. Despite the Commission's comments regarding Ohio Adm.Code 4901:1-10-05(J)(4), EDUs must still file an application for waiver of Ohio Adm.Code 4901:1-18-06(A)(2).

{¶ 41} OCC proposes a revision to the existing subsection (I), which currently requires EDUs to take an actual meter reading once every calendar year (reading by electric means equates to an actual reading) and to make reasonable attempts to obtain actual, accurate readings every billing period, unless the EDU and customer have agreed to other arrangements. OCC contends that “reasonable attempts” is overly subjective and can result in mechanical meters not actually being read by the utility for a long time. OCC proposes that EDUs “shall attempt to” obtain actual readings every billing period but must obtain an actual reading a minimum of four times per year per customer, though a customer and EDU can agree to less frequent readings provided each meter is read at least once annually. OCC believes that these changes are necessary to better ensure that customers are billed accurately and billed for the correct amount of electricity used. Further, OCC argues that the billions of dollars spent on grid modernization and AMI should result in more frequent and accurate meter readings. (OCC Comments at 7-8.)

{¶ 42} AEP Ohio, FirstEnergy, Duke, and DP&L oppose OCC’s recommended changes for various but similar reasons, such as that they already endeavor to take actual meter readings each month, that the revision would require the utility to take actual readings in instances where it would normally estimate usage because of a customer’s denial of meter access or for safety concerns, that the revision would increase the utility’s costs, and that the additional meter reads would provide little to no benefit to customers (AEP Ohio Reply Comments at 2; FirstEnergy Reply Comments at 5; Duke Reply Comments at 2; DP&L Comments at 3). Furthermore, DP&L argues that the rule is unnecessary because customers with an estimated bill have the option to schedule an appointment for an actual reading if the customer believes the estimate is inaccurate. DP&L also emphasizes that it has not commenced grid modernization or the rollout of AMI, so if the Commission adopts the revisions, DP&L contends the amendment should apply only toward those EDUs with AMI. DP&L also notes that OCC attempts to shift the requirement from “in service meters” to “per customer,” but, DP&L contends, any meter reading requirement should be based on the meter, as opposed to the customer, since customers premises can change during the year. (DP&L Reply Comments at 3.) Duke notes that smart meters have already



improved billing accuracy and having additional meter reads for the very few remaining customers who have traditional meters would be costly and of no demonstrable value (Duke Reply Comments at 2).

{¶ 43} The Commission, in part, agrees with OCC's suggestion to increase the total number of required meter readings per calendar year. The Commission has revised the rule to reflect that an EDU must obtain an actual meter reading of all in-service customer meters at least quarterly each calendar year. The Commission believes the phrasing of the remainder of this rule is sufficient, so OCC's other revisions to the rule are rejected. However, the Commission orders that, when an advanced meter is used at a customer's service location, an EDU must obtain actual meter readings on a monthly basis. These monthly meter readings are a benefit created by ratepayers' investment in AMI technology. Increasing the number of required, actual meter readings helps accomplish the goal of providing customers with more accurate bills since an EDU must rely less on customer electricity usage estimates throughout the year. The Commission does not find persuasive the EDUs' arguments against raising the minimum required amount of actual readings per calendar year. Regulatory provisions already exist (e.g., Ohio Adm.Code 4901:1-18-03(D) for residential customers and Ohio Adm.Code 4901:1-10-15(E) for nonresidential customers) which allow EDUs to deny service to customers if doing so would pose a safety hazard to an EDU's personnel or equipment—this includes obtaining actual meter readings at properties flagged for the above concerns. Also, the benefits of the goal above outweigh any increased burden on the EDUs, even for EDUs such as DP&L who states that it has not commenced AMI rollout; therefore, the rule has been revised accordingly.

**C. Ohio Adm.Code 4901:1-10-07 – Outage and Accident Reports**

{¶ 44} AEP Ohio, DP&L, Duke, and FirstEnergy all oppose Staff's proposed revisions to subsection (A), which would expand the number of interruptions of service that qualify as an "outage." The above EDUs agree with one another that the proposed change will substantially increase the number of reportable events, burdening the Commission and utilities, resulting in significant resource and staff changes without any commensurate

benefit. (AEP Ohio Comments at 4-5; AEP Ohio Reply Comments at 3; DP&L Comments at 3; Duke Comments at 2-3; Duke Reply Comments at 2; FirstEnergy Comments at 3-4; FirstEnergy Reply Comments at 5). Duke also argues that no purpose exists for this revision because the requested reports are reported annually (Duke Comments at 3). AEP Ohio and DP&L further argue that interested parties have different platforms, such as websites, email, phone texts, and social media, through which interested parties can communicate with utilities during an outage (AEP Ohio Comments at 4; DP&L Comments at 3). Also, DP&L and Duke argue that increasing the reporting requirement may impede restoration times since restoration personnel may be required to help meet the new reporting requirements (DP&L Comments at 3; Duke Comments at 3; Duke Reply Comments at 2).

{¶ 45} The Commission notes the EDU's concerns described above; however, the Commission considers Staff's proposed changes identify significant outages for which Staff and the Commission should be advised. Even before this proposed revision, and despite different utility-platforms through which customers could access outage information, the Commission's call center frequently received calls during outages that were not within the original reporting parameters set by these rules, leaving the Commission ill-equipped to help those in need. Revising the rules will enable the Commission to be better informed and, therefore, in a better position to help these customers. Also, DP&L's and Duke's arguments that the reporting requirement may impede restoration times since restoration personnel may be required to help meet the new reporting requirements are not well-taken. EDUs' concerns are outsized because outage reporting comes from distribution dispatch centers, not from people in the field, and the outage report consists of a simple form that is filled-out and emailed to Staff's outage email address.

{¶ 46} Though each electric utility recommends/supports certain changes to Staff's proposed amendment adding subsection (C), AEP Ohio, DP&L, and FirstEnergy generally do not oppose the amendment, which requires utilities to report accidents to the Commission that result in a death or an injury requiring hospitalization (AEP Ohio Comments at 5; DP&L Comments at 3; FirstEnergy Reply Comments at 5-6). To eliminate

possible confusion and ensure prompt and compliant communication, AEP Ohio recommends, and FirstEnergy supports, removing “immediately” and “within thirty minutes after discovery unless notification within that time is impracticable” (AEP Ohio Comments at 5; FirstEnergy Reply Comments at 5-6). DP&L recommends, and FirstEnergy supports, clarifying the term “accident” so that it does not include vehicle accidents. DP&L argues that an EDU may not know if a person involved in an accident required hospitalization, and, due to HIPAA laws, often does not know this information, so DP&L recommends that failure to report these types of accidents should not be considered a rule violation. (DP&L Comments at 3; FirstEnergy Reply Comments at 5-6.) FirstEnergy further notes that removing vehicle accidents from the term “accident” would be consistent with the approach taken in other states in which FirstEnergy operates (FirstEnergy Reply Comments at 6).

{¶ 47} Initially, the Commission declines to adopt AEP Ohio’s suggested revisions, and, specifically rejects the second revision as especially unnecessary because the proposed language already contemplates situations in which prompt notification is impracticable, stating “unless notification within that time is impracticable.” Although the following was not raised in the comments, the Commission intends to add clarification to the meaning of accident by adding “energized” to the last sentence so that it now reads “is any event involving contact with *energized* utility electric lines or facilities[.]” Regarding DP&L’s recommendation, along with FirstEnergy’s rationale, for removing a vehicle accident from the meaning of “accident,” the Commission rejects this recommendation. First, the Commission notes that reliability reporting encompasses more than determining which outages should or should not count towards performance; it also concerns the company’s ability to restore power when an outage occurs. Keeping a broad definition of “accident,” including vehicle accidents, allows for a better illustration of this overall performance. With regard to DP&L’s and FirstEnergy’s concerns about knowing whether a person was injured as a result of an accident with their electric lines or facilities, the Commission believes, first, that the EDUs will at some point be informed that a person was killed and/or injured and, second, that the rule already contemplates situations where the EDU may not initially know

if a qualifying “accident” occurred—forgiving the thirty-minute report time in impracticable situations, such as not knowing the injury-status of the person. Furthermore, depending on the specific facts and circumstances, failure to report an accident about which the utility did not know would not be a violation of this rule.

**D. *Ohio Adm.Code 4901:1-10-08 – Electric Utility Emergency Plans and Coordination for Restoration of Electric Service***

{¶ 48} OCC recommends that the Commission revise subsection (A)(1) so that emergency plans maintained by EDUs include the circumstances warranting implementation of the plan (OCC Comments at 8-9). AEP Ohio, DP&L, and FirstEnergy oppose this proposed amendment by OCC, claiming that the change is unduly prescriptive and overly burdensome because of the exhaustive list of circumstances it would require (AEP Ohio Reply Comments at 3; DP&L Reply Comments at 5; FirstEnergy Reply Comments at 6). DP&L also notes that OCC has previously requested this same revision, which was rejected by the Commission in *In re the Commission’s Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014) at 10 (DP&L Reply Comment at 5).

{¶ 49} The Commission agrees with AEP Ohio, DP&L, and FirstEnergy that OCC’s proposed revision is overly prescriptive. Accordingly, the Commission declines to adopt OCC’s proposal.

{¶ 50} OCC also recommends revising subsection (B) to require the Commission to keep emergency plans at the Commission for ease of reference and efficiency (OCC Comments at 9). AEP Ohio, DP&L, and FirstEnergy oppose OCC’s recommendation, arguing that it is unnecessary since the plans are already available to the Commission and that it is unduly burdensome/costly since the amendment would require EDUs to provide updated plans frequently to the Commission (AEP Ohio Reply Comments at 3; DP&L Reply Comments at 4; FirstEnergy Reply Comments at 6). FirstEnergy notes that emergency plans and supporting documents contain confidential information in a database that is regularly updated (FirstEnergy Reply Comments at 6). Further, DP&L argues that OCC’s revision is

a veiled attempt to make emergency plans subject to public records requests, circumventing the Commission's ruling in Case No. 12-2050-EL-ORD. According to DP&L, in that case, the Commission rejected OCC's attempt to receive a copy of the emergency plan because " \* \* \* emergency plans contain critical infrastructure information, and control of that data should remain with the utilities." See *In re the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies, (Chapter 10 Rule Review)* Case No. 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014) at 10. The Commission further set forth its belief " \* \* \* that the Commission's outage coordinator and staff have sufficient authority and oversight to ensure that the utilities maintain proper and effective emergency plans." *Chapter 10 Rule Review* at 10; (DP&L Reply Comments at 4.)

{¶ 51} The Commission agrees with the arguments set forth by the EDUs and reiterates the reasoning set forth by the Commission in *Chapter 10 Rule Review*. *Chapter 10 Rule Review* at 10. Accordingly, OCC's proposed amendment is rejected.

{¶ 52} OCC also recommends that subsection (I), which requires EDUs to annually verify and update their lists of critical customers, be amended so that EDUs must update and verify its list of critical customers at least on a quarterly basis. Without this change, OCC argues, the list may become quickly outdated and not reflective of customer needs. OCC also recommends amending this subsection to require EDUs to provide notice to persons that provide care to critical customers about planned and sustained outages. Further, OCC recommends that EDUs be required to provide a priority response to restore outages for critical customers following sustained outages. (OCC Comments at 9-10.)

{¶ 53} AEP Ohio and DP&L oppose OCC's requested amendments to subsection (I), arguing that the changes impose a significant administrative burden on the utilities because the list of critical customers and care providers changes daily. AEP Ohio and DP&L further argue that these changes present potential HIPAA concerns and that the changes would not provide any added benefit. (AEP Ohio Reply Comments at 3-4; DP&L Reply Comments at 5-6.) DP&L also argues that OCC's recommendation to require priority response to restore service to critical customers will result in needless micromanaging of

EDUs, who are entrusted and charged with providing safe and reliable service. Furthermore, DP&L argues critical customers are spread throughout the entire service territory on many different circuits, so the change, potentially, could prioritize all circuits at the same time, rendering the rule meaningless. (DP&L Reply Comments at 5-6.) Finally, FirstEnergy argues that the current practice of annual outreach and verification of critical customers is a more reasonable approach compared to OCC's recommendation because quarterly outreach is an unnecessary intrusion and inconvenience for its customers. In most cases, FirstEnergy argues, these customers' medical equipment is permanent, and their status as critical customers does not change. FirstEnergy also argues that priority restoration for individual critical customers would be complex and may slow restoration for all customers affected by the sustained outage. (FirstEnergy Reply Comments at 6-7.)

{¶ 54} The Commission agrees with the reasoning provided by the EDUs, and, accordingly, rejects OCC's proposed amendments to subsection (I).

*E. Ohio Adm.Code 4901:1-10-09 – Minimum Customer Service Levels*

{¶ 55} While AEP Ohio, DP&L, and FirstEnergy generally do not oppose Staff's proposed amendment, adding subsection (B)(5), they oppose the amendment in its current form, arguing that the requirement to report when outage messaging on its system is activated or inbound calls cannot be received will overly burden the utilities and the Director of the Service Monitoring and Enforcement Department at the Commission (AEP Ohio Comments at 6; DP&L Comments at 4; FirstEnergy Comments at 4). AEP Ohio and FirstEnergy further explain that, during an outage, they often reroute some inbound calls to an outgoing message that provides the customers with critical outage information, and the switch to an outgoing message occurs frequently enough that the new rule may require daily or weekly reporting to the Commission (AEP Ohio Comments at 6; AEP Ohio Reply Comments at 4; FirstEnergy Comments at 4; FirstEnergy Reply Comments at 7). For clarification purposes, AEP Ohio suggests rephrasing the beginning of the rule to read, "When an electric utility is experiencing system related issues or is otherwise \* \* \*" (AEP Ohio Comments at 6). DP&L argues that Staff's proposed amendment is vague since

“outage messaging” is not defined. DP&L argues also that the reporting of momentary system glitches that do not materially affect a customer’s ability to contact the utility would produce little, if any, incremental benefit. As a solution, DP&L proposes adding a definition for “outage messaging” to Ohio Adm.Code 4901:1-10-01, as proposed subsection (JJ), and inserting the phrase “for a period of thirty minutes or longer” after “otherwise unable to accept inbound customer calls[.]” (DP&L Comments at 4.) In its reply, AEP Ohio disagrees with DP&L’s proposed revisions, stating that the new language imposes the additional burden of tracking the time the utility is unable to accept inbound calls, and the thirty-minute threshold would not significantly reduce the burden imposed by Staff’s changes (AEP Ohio Reply Comments at 4). In its reply, FirstEnergy also disagrees with DP&L’s changes, arguing that the changes only increase the burden of Staff’s initial proposal (First Energy Reply Comments at 7).

{¶ 56} The Commission supports AEP Ohio’s and FirstEnergy’s comments concerning the initial wording proposed by Staff. The Commission believes that AEP Ohio’s proposed revision to the proposed language better clarifies the intent of the rule, and the Commission adopts the change.

{¶ 57} AEP Ohio proposes a revision to subsection (B) so that each electric utility’s monthly average (i.e., arithmetic mean) answer time for telephonic customer service calls does not exceed 90 seconds. AEP Ohio suggests changing the phone answering statistics to an annual average rather than a monthly average to consider seasonality of calls and to recognize that some months are well below target. AEP Ohio argues that it will be expensive to maintain the level of service required by the rule and, at times, the call center must prioritize Ohio calls over others to meet the monthly targets (AEP Ohio Comments at 6-7.)

{¶ 58} The Commission rejects AEP Ohio’s proposal because the monthly 90-second average threshold is an appropriate requirement that aims to provide customers with sufficient and consistent customer service year-round. Allowing an annual average threshold compared to monthly may lead to inconsistent service throughout the year. AEP Ohio’s example concerning seasonality problems portends the potential issues posed by an

annual average whereby EDUs may assume the shorter answer averages accumulated during off-peak demand periods gives them enough leeway during high-peak demand periods to not increase call center staff adequately, resulting in longer queues for customers. The Commission believes it is incumbent upon the EDU to appropriately staff for seasonality and believes EDUs can take solace in the fact that they are providing quicker customer service during these lower demand months.

***F. Ohio Adm.Code 4901:1-10-10 - Distribution System Reliability***

{¶ 59} AEP Ohio suggests revising Staff's proposed subsection (B)(8), which requires that an EDU's approved performance standards remain in place until superseded by Commission-approved revised standards. AEP Ohio recommends including an automatic approval mechanism in this section so that the revised standards are automatically approved within 45 days of their filing with the Commission if the Commission fails to act upon the filing during that period. (AEP Ohio Comments at 8.) FirstEnergy supports AEP Ohio's recommendation, claiming that the automatic approval mechanism will reduce a utility's administrative burden (FirstEnergy Reply Comments at 8). OCC opposes AEP Ohio's 45-day automatic approval, stating that AEP Ohio offered no support, argument, or precedent for this proposal, and OCC reiterates that performance standards should not change until the Commission affirmatively grants an application for revision of standards (OCC Reply Comments at 7-8).

{¶ 60} AEP Ohio's recommendation is not well taken, as 45 days is not a sufficient amount of time for Staff to properly review a standards application and be in a position to offer a thorough recommendation to the Commission. Therefore, the Commission rejects AEP Ohio's recommendation.

{¶ 61} Duke notes that EDUs already use SAIDI and System Average Interruption Frequency Index (SAIFI) as distribution system reliability performance benchmarks and recommends using these reliability measurements instead of Customer Average Interruption Duration Index (CAIDI). Duke states that the customer reliability experience is a function of both frequency of interruptions and the duration of interruptions. Duke



argues that CAIDI, the measure of how long an average interruption lasts, can go both up and down as reliability improves, making it a confusing measure of reliability. For example, CAIDI can be lowered by reducing the length of interruptions but can also be lowered by increasing the proportion of shorter-than-average interruptions, meaning an increase in CAIDI does not necessarily mean that reliability is getting worse. Furthermore, if SAIFI and SAIDI are both decreasing, but SAIFI decreases faster than SAIDI, CAIDI will go up even though reliability is getting better. In contrast, for a fixed number of customers, SAIDI can be improved by reducing the number of interruptions or by reducing the duration of these interruptions. SAIDI captures both frequency and duration effects in a single metric, avoiding the confusion brought on by CAIDI. (Duke Comments at 3-4.) In its reply, Duke suggests that if CAIDI is retained, the Commission could add language making it a reportable number but not one that, when it increases, results in compliance sanctions (Duke Reply Comments at 3). In its reply, AEP Ohio states that it supports Duke's recommendation to remove CAIDI and replace it with SAIDI (AEP Ohio Reply Comments at 5). OCC supports Duke's proposal since OCC believes SAIDI measurements could provide additional information regarding distribution system performance, and, OCC notes that SAIDI is already used in determining the worst performing circuits. OCC does not support eliminating CAIDI as a reliability measurement tool, positing that the more information the Commission and stakeholders have, the easier it is to evaluate whether the system is performing reliably for customers. (OCC Reply Comments at 8-9.) FirstEnergy opposes Duke's recommendation, arguing that no benefits to the change exist because each reliability statistic (e.g., SAIFI, CAIDI, and SAIDI) is simply a value calculated using the other two values (e.g.  $SAIFI \times CAIDI = SAIDI$ ) (FirstEnergy Reply Comments at 8).

{¶ 62} Initially, the Commission acknowledges that SAIDI is a reliable measure of the system's overall reliability and also notes that SAIDI can currently be calculated using the data reported to the Commission by the EDUs. The Commission is open to further exploring the inclusion of SAIDI in Ohio Adm.Code 4901:1-10-10 as a reliability performance measurement in the future but not at this time. Duke has already committed to using CAIDI as one of its reliability performance standards through 2025, as determined

in *ESP IV. In re Application of Duke Energy Ohio, Inc.*, Case No. 17-1263-EL-SSO, et al. (*ESP IV*), Opinion and Order (Dec. 19, 2018) at 66-67. Furthermore, AEP Ohio has committed to using CAIDI as one of its reliability performance standards through at least 2020. *In re the Establishment of Minimum Reliability Performance Standards, Pursuant to Ohio Adm.Code 4901:1-10-10(B), For Ohio Power Company*, Case No. 16-1511-EL-ESS, Opinion and Order (Feb. 7, 2018) at 8. Though the Commission acknowledges some of Duke's concerns about CAIDI, the Commission still views CAIDI as a reliable metric for reliability performance standards.

{¶ 63} OCC recommends adopting Momentary Average Interruption Frequency Index (MAIFI) and SAIDI as additional reliability performance standards because they will better reflect the effects of certain major outages and non-sustained outages. As a part of this proposal, OCC also recommends adding the defined term, "momentary outage," to Ohio Adm.Code 4901:1-10-01. OCC states that the current standards, CAIDI and SAIFI, are more reflective of the normal day-to-day operations of the distribution system when the system's operational limits are not being stressed by inclement weather or other factors. OCC believes that momentary interruption data through MAIFI and SAIDI can be useful in assessing the reliability of electric service. Although the Commission had previously expressed concern that implementing momentary outage standards was not yet ripe given the lack of uniformity in collecting data, OCC argues that the time is now ripe because utilities are spending billions of dollars on grid modernization under the premise that such spending will improve reliability. *In re the Commission's Review of Chapters 4901:1-9, 4901:1-10, 4901:1-21, 4901:1-22, 4901:1-23, 4901:1-24, and 4901:1-25 of the Ohio Administrative Code*, Case No. 06-653-EL-ORD, Finding and Order (Nov. 5, 2008) at 14. Further, OCC asserts that advancements in grid infrastructure as well as meter reading enhancements enables EDUs to receive up-to-the-minute information about the service quality and reliability customers are experiencing. OCC believes momentary outages should now be included in annual reliability reports so that the Commission and stakeholders can analyze the value to customers of the money spent on grid modernization. (OCC Comments at 1-4.)

{¶ 64} AEP Ohio opposes OCC's proposed addition of MAIFI, arguing that its inclusion in reporting standards is overly burdensome, operationally impracticable, and does not accurately represent the reliability of the system. AEP Ohio states that a momentary outage indicates that a system is operating properly. AEP Ohio also states that it does not have the capability of tracking and compiling data related to momentary outages. Further, AEP Ohio argues that Ohio Adm.Code 4901:1-10-10(C)(4) acknowledges the impracticability of providing data related to momentary interruptions, requiring an EDU's annual report to include, "[d]ata for the total number of momentary interruptions on the electric utility's system *where practical*." [Emphasis added]. AEP Ohio believes CAIDI and SAIFI more accurately represent the health of the distribution system and notes that SAIDI equals SAIFI multiplied by CAIDI, so it does not include momentary interruption data, as OCC represented it did. (AEP Ohio Reply Comments at 4-5.) Similar to AEP Ohio, FirstEnergy also opposes OCC's proposal, stating that not all EDUs have the ability to track all momentary outages, and the proposal would introduce an unnecessary standard for a subset of outages. Also, FirstEnergy argues that tracking and reporting momentary outages will skew the results and penalize EDUs for undertaking work to improve overall reliability. (FirstEnergy Reply Comments at 3.) Duke also opposes OCC's proposal, noting that it cannot track all momentary outages and that including a third measurement would be additionally costly, time consuming, and of no benefit to the customer. Also, Duke states that SAIDI can be calculated using CAIDI and SAIFI, so requiring all three measurements is unnecessary. (Duke Reply Comments at 3.)

{¶ 65} DP&L also opposes OCC's proposal, maintaining that MAIFI is still not ripe for consideration since DP&L has not implemented its smart grid technology, which is necessary to track and report the granular level of detail needed to meet the MAIFI standard. DP&L argues that this proposal emphasizes form over substance by encouraging utilities to chase the avoidance of momentary outages, potentially creating more prolonged outages. DP&L further explains that it installs reclosers on its overhead distribution system to reduce sustained outages caused by momentary or transient faults, and, while clearing a fault, the reclosers may operate causing a momentary loss of power to the customer. DP&L argues

that, in these instances, these momentary outages are far more desirable than a sustained outage. (DP&L Reply Comments at 6-7.)

{¶ 66} The Commission agrees with the reasoning provided by the EDUs that tracking momentary outages is problematic. First, the Commission notes that smart meters can register outages in power where durations are imperceptible to customers. At this time, and as was determined in Case No. 06-653-EL-ORD, holding utilities accountable for these types of outages is still problematic, especially considering the status of smart meter deployment and grid modernization and our understanding of their effects on the system. Second, as noted by DP&L, we expect MAIFI to increase because reclosers and distribution automation combat sustained outages by creating momentary outages as the system restores itself.

{¶ 67} OCC also recommends amending subsection (C)(1), which currently requires annual reliability performance reports, to recognize the inclusion of momentary interruptions and SAIDI data for a major event.

{¶ 68} The Commission declines to adopt this proposed amendment for the same reasons set forth above. Also, the requirement to report momentary outages is included in Ohio Adm.Code 4901:1-10-10(C)(4). Further, the Commission finds it unnecessary to additionally require SAIDI data for a major event because the variables required to calculate SAIDI are already included in the required annual reports.

{¶ 69} OCC also recommends amending subsection (D), which requires EDUs to submit an action plan to Staff if the electric utility fails to meet any reliability indices in a year. OCC believes that the action plan should be filed simultaneously with the required annual report, asserting that knowledge of an EDU's missed performance standard is meaningless without information concerning the EDU's efforts to resolve the issue. OCC's proposed change also requires that the report and action plan be publicly filed to ease stakeholders' burden in acquiring the information and requires that a quarterly status report be filed indicating the EDU's progress regarding actions in the action plan.

{¶ 70} AEP Ohio opposes OCC's recommendation, claiming that requiring an EDU to update its action plan quarterly is unduly burdensome. Also, no benefits result from an electric utility publicly filing its action plan. (AEP Ohio Reply Comments at 5.) Similarly, Duke opposes the proposal, stating that no added-value exists compared to the current process since problem resolutions occur at a quicker pace than the proposed requirement (Duke Reply Comments at 4). DP&L also opposes OCC's recommendation, stating that it could require EDUs to publicly divulge confidential and potentially critical infrastructure information that could endanger the grid, especially at its vulnerable spots. Instead, DP&L states that well-established means to share confidential and sensitive information between interested parties already exist. (DP&L Reply Comments at 7.)

{¶ 71} The Commission agrees, in part, with OCC in that the Commission believes the action plan should be filed publicly; however, the Commission also believes that the current rules regarding submission of status reports on the action plan and the timing of the filing of the action plan are sufficient. The action plan is tied to the publicly filed annual report, and the Commission agrees with OCC that this information is useful to stakeholders by being readily ascertainable. Regarding DP&L's concerns about confidential or sensitive infrastructure information being publicly broadcasted, existing procedural mechanisms offer potential protective treatment of any such sensitive information. Accordingly, subsection (D) and (D)(2) have been revised to reflect the requirement that these reports must be filed with the Commission.

{¶ 72} The Commission received a public comment requesting that an amendment be made to subsection (B)(2) requiring that already published EDU-specific minimum reliability performance standards and actual EDU performance must be published on the Commission's website for the current and prior two years. OCC opposes this amendment, arguing that it makes little sense to limit reliability performance data available for public consumption, especially considering the website currently maintains this data for a much longer period of time (OCC Comments at 6-7).

{¶ 73} The Commission agrees with OCC's reasoning; reliability standards and actual reliability performance are published on the Commission's website detailing this information for the last several years. The Commission sees no viable reason to limit the publishing of this data; therefore, it rejects this proposed amendment.

{¶ 74} AEP Ohio recommends that outages associated with scheduled distribution work be excluded from the indices that reflect reliability and performance of the distribution system. More specifically, AEP Ohio recommends the following should be excluded from the indices: scheduled outages, outages that impact customers while abnormally fed from alternate sources, and outages that occur when protective devices are placed in non-reclose configurations or more sensitive settings for worker safety. AEP Ohio argues that scheduled outages are taken to improve the long-term health of the system, yet they negatively affect reliability metrics in the near-term. Furthermore, AEP Ohio recommends that outages resulting from public acts be excluded from the indices since they are not within the utility's control. AEP Ohio suggests using "public interruption," as defined in IEEE 1782 "IEEE Guide for Collecting, Categorizing, and Utilizing Information Related to Electric Power Distribution Interruption Events" when referring to "public acts" in the amendment. Even with the proposed changes, AEP Ohio believes subsection (C)(3) still quantifies the overall system impact of scheduled and public outages. (AEP Ohio Comments at 7-8.) Duke and FirstEnergy support AEP Ohio's recommendations (Duke Reply Comments at 1-2; FirstEnergy Reply Comments at 8). OCC opposes AEP Ohio's recommendation and asserts that a planned outage is still an outage from a customer's perspective and should remain in the requisite outage reports (OCC Reply Comments at 7).

{¶ 75} The Commission acknowledges AEP Ohio's and the other EDUs' concerns, but the Commission notes that customers are the ones who ultimately experience these outages and are inconvenienced by them, whether scheduled or out of the utility's control. Improving the health of the distribution system is certainly important; however, the Commission intends to keep these types of outages in the reliability measures to function as a reminder that prudent system improvement planning, to avoid customer inconvenience,

is something the Commission deems important as well. Therefore, the Commission rejects AEP Ohio's recommendation.

{¶ 76} In relation to its proposed changes to Ohio Adm.Code 4901:1-10-01(T), removing information concerning transmission outages from reliability minimum performance standards measurements, AEP Ohio also recommends amending subsection (C)(1). AEP Ohio believes transmission outages are outside the purview of these performance standards and that requiring distribution companies to report every transmission outage imposes a significant burden on all distribution companies. Further, it argues that the overall impact of transmission outages is already reported in subsection (C)(3). FirstEnergy supports AEP Ohio's proposal, adding that reporting every transmission outage imposes a significant burden on all distribution companies since they are tracked differently than distribution outages (FirstEnergy Reply Comments at 8).

{¶ 77} The Commission declines to adopt AEP Ohio's proposed addition. Even though transmission outages are excluded from reliability performance standards, it is essential that Staff be able to review transmission outages and their impact upon the distribution system and its direct customers.

***G. Ohio Adm.Code 4901:1-10-11 - Distribution Circuit Performance.***

{¶ 78} AEP Ohio recommends amending subsection (C) to require EDUs to identify five-percent of the worst performing utility distribution circuits instead of the current rule's eight-percent. AEP Ohio argues that five-percent is a better reflection of the worst performing circuits, and the change would allow the utility to focus on the circuits that are truly in need of repairs or upgrades. (AEP Ohio Comments at 8-9.) First Energy supports AEP Ohio's change and the reasoning behind it (FirstEnergy Reply Comments at 8-9). OCC opposes AEP Ohio's proposed amendment because decreasing the number of circuits that utilities must identify and improve will not result in better reliability (OCC Reply Comments at 9-10).

{¶ 79} The Commission notes that the rule has required a listing of the eight-percent worst performing circuits since its creation. The Commission believes that reporting eight-percent, instead of five-percent, of the worst performing circuits provides the Commission with a more complete picture of each utility's distribution circuit reliability; therefore, the Commission declines to adopt AEP Ohio's proposal.

{¶ 80} OCC recommends amending subsection (C)(1) to require EDUs to publicly file the report identifying the eight-percent worst performing circuits with the Commission instead of filing the report with the Director of the Service Monitoring and Enforcement Department. OCC asserts that it uses this information to help analyze the reliability of service being provided to residential customers, and it argues that obtaining this information through public records requests is inefficient and administratively burdensome. (OCC Comments at 10-11.) AEP Ohio opposes OCC's amendment because no benefit exists for customers in making the information publicly available and may result in customer confusion (AEP Ohio Reply Comments at 5). DP&L opposes the amendment for the same reasons provided in other rules – that the information includes confidential and critical infrastructure information that could be used to orchestrate an attack on the grid (DP&L Reply Comments at 11). Duke opposes the amendment because it believes OCC would be duplicating efforts/duties already discharged by Staff to examine reliability provided to customers, resulting in inefficiency and no added value (Duke Reply Comments at 4).

{¶ 81} The Commission believes this report provides useful information about system reliability and will not create customer confusion if made available to the public, contrary to AEP Ohio's remarks. Therefore, the Commission orders the EDUs to make this report available to the public upon reasonable request with the understanding that an EDU will be afforded an opportunity to redact any confidential information prior to satisfying such a request.

{¶ 82} OCC also recommends amending subsection (F), which currently establishes a rebuttable presumption of a rule violation if a circuit is listed on the eight-percent worst



performing circuit list for three consecutive years. OCC suggests that EDUs should be required to take corrective action to ensure that customers are not being served by a circuit that is on two consecutive reports instead of three. (OCC Comments at 11-12). AEP Ohio, DP&L, and First Energy oppose OCC's recommendation, stating that a two-year requirement is operationally impracticable and would not allow sufficient time to remediate circuits (AEP Ohio Reply Comments at 6; DP&L Reply Comments at 7-8; FirstEnergy Reply Comments at 9). FirstEnergy adds that customer-focused programs outside of the worst performing circuit report already exist which address specific customer reliability situations (FirstEnergy Reply Comments at 9). DP&L provides an example to demonstrate its reasoning—a circuit may appear on the list, but the corrective action plan developed in response could take nine months or more to fully implement, considering the planning, engineering, and construction involved, leaving only three months for the circuit to improve. DP&L also notes that OCC's recommended edits would tie these reports to customers affected by the outage instead of being tied to the circuit, which would create confusion and potentially would be unduly burdensome. (DP&L Reply Comments at 8.)

{¶ 83} The Commission agrees with the reasoning provided above by the EDUs concerning changing requirement from three to two years. Furthermore, the Commission agrees with DP&L with regard to OCC's edit. Changing tracking from a per circuit basis to a per customer basis is confusing and unnecessary. Therefore, the Commission rejects OCC's proposed amendments.

#### *H. Ohio Adm.Code 4901:1-10-12 – Provision of Customer Rights and Obligations*

{¶ 84} Staff proposes requiring an additional statement included with the written summary of customers rights and obligations that notifies the customers of the new CRES-switching block provision proposed by Staff under Ohio Adm.Code 4901:1-10-24(H).

{¶ 85} For the reasons set forth under the section addressing Ohio Adm.Code 4901:1-10-24, the Commission rejects Staff's proposal for Ohio Adm.Code 4901:1-10-24(H); therefore, the Commission rejects Staff's inclusion of the above notification in the customer's written summary of customer rights and obligations.

{¶ 86} OCC recommends that this rule be amended so that customer rights and obligations be provided in written form to all customers when they initially apply for service, annually thereafter, and on the Commission's website (OCC Comments at 12-13). AEP Ohio, DP&L, and FirstEnergy all oppose OCC's recommendation, stating that the EDUs already inform customers of their rights and obligations and that providing this information again would be unduly burdensome, provide little benefit to customers, and create significant additional costs (AEP Ohio Reply comments at 6; DP&L Reply Comments at 8; FirstEnergy Reply Comments at 9). Furthermore, DP&L and FirstEnergy argue that this information is already publicly available, such as on the utility's website (DP&L Reply Comments at 8; FirstEnergy Reply Comments at 9).

{¶ 87} The Commission agrees with the reasoning set forth by the EDUs. As long as a list of customers' rights and obligations are readily available and easy to find on each of the EDU's websites, the Commission sees no benefit to OCC's proposed amendment. Accordingly, the proposed amendment is rejected.

{¶ 88} OCC also recommends amending subsection (D)(2), which currently requires an EDU to provide additional information about alternative rates and service options only upon the inquiry of the customer. OCC revises the rule by placing the burden upon an EDU, and not the customer, to inform the customer about alternative rates and service options. (OCC Comments at 13.) DP&L opposes OCC's recommendation, cautioning that the Ohio Revised Code and Ohio Administrative Code do not define "service option," so the rule is ambiguous. DP&L states that such vague and undefined terms could result in increased costs, wait times, and confusion for customers (DP&L Reply Comments at 9.) FirstEnergy opposes the amendment and argues that information regarding alternative rates and service options is publicly available on its website and argues that additional unsolicited mailings of printed materials contradicts sustainability goals (FirstEnergy Reply Comments at 9).

{¶ 89} The Commission agrees, in part, with OCC's recommended amendment. OCC's language is clearer and more concise than the language in the current rule; however,

the Commission disagrees with OCC shifting the burden onto the utility by requiring the utility to proactively inform customers about alternative rates and service options because this information is readily available to customers on an EDU's website, and, if interested, the customer may reach out to the EDU for more information. The new rule reads, "A statement that, upon inquiry, the electric utility will inform customers about alternative rates and service options and how to obtain details about the programs."

{¶ 90} DP&L recommends amending subsection (F) to acknowledge seamless move situations, as previously described in this Order under the review of Ohio Adm.Code 4901:1-10-01, as an exception to an EDU's general prohibition from disclosing a customer's account number. DP&L explains that a seamless move requires that the EDU transfer an already negotiated CRES contract to the customer's new address if the customer affirmatively chooses that opportunity when calling the EDU to transfer service. To transfer the contract, the EDU must disclose the customer's new account number to a CRES provider, thus a new exception needs added to subsection (F)(1). (DP&L Comments at 5-6.) In its reply, AEP Ohio states that it supports DP&L's proposed additions (AEP Ohio Reply Comments at 6-7). IGS also supports DP&L's attempt to incorporate seamless move into this rule, though it suggests removing the language following seamless move that requires a customer to affirmatively choose switching to a CRES provider. IGS argues that a seamless move means the CRES provider and customer have already consented to the transfer, so the additional verbiage is unnecessary and incomplete. (IGS Reply Comments at 10.) In its reply, RESA/Direct oppose DP&L's amendments, stating that it is unnecessary since the customer has already consented to a seamless move transfer by entering a seamless moves agreement. RESA/Direct also reiterates that the requirements for a seamless move were established under Case No. 14-2074-EL-EDI, so any technical implementation issues should be addressed in a workshop and not rulemaking. *In re the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3251-EL-COI, *In re the Market Development Working Group*, Case No. 14-2074-EL-EDI (*Market Development Working Group*), Finding and Order (Feb. 7, 2018) at 13. (RESA/Direct Joint Reply Comments at 7-8.) OCC opposes DP&L's

recommendation, as well, stating it eliminates a protection requiring customers to “affirmatively choose” to transfer service (OCC Reply Comments at 11).

{¶ 91} For the same reasons we declined to adopt a definition for “seamless move” under the review of Ohio Adm.Code 4901:1-10-01, the Commission declines to adopt DP&L’s recommendation.

{¶ 92} DP&L also proposes revising subsection (F)(3) to include “residential” before “customer energy usage data” to be consistent with Ohio Adm.Code 4901:1-10-24(E)(3). DP&L suggests amending this subsection to explicitly allow “electric authorization.” DP&L believes that allowing customers to provide electronic consent for the release of energy usage data will be important as utilities move to a more digital interface through distribution modernization. (DP&L Comments at 5.) In their replies, AEP Ohio and IGS support DP&L’s recommended amendment, though AEP Ohio supports the amendment on condition that additional security is implemented to accommodate the electronic authorization proposed (AEP Ohio Reply Comments at 6-7; IGS Reply Comments at 14). OCC opposes DP&L’s recommendation because written consent protects both customers and the electric utilities from future assertions that the customer was confused when allowing this disclosure or assertions that the customer was slammed by a marketer. OCC further states that an electric utility can file a motion for waiver of the written consent requirement. A waiver application gives OCC an opportunity to evaluate the utility’s proposal and ensure customers are informed in their decision making. (OCC Reply Comments at 10-11.)

{¶ 93} The Commission rejects DP&L’s inclusion of “residential” in this rule since the proposed amendment to Ohio Adm.Code 4901:1-10-24(E)(3) will remove “residential” from that provision. However, the Commission will adopt DP&L’s request to include “electronic authorization” as a means to provide consent to the release of a variety of the customer’s energy consumption data. The Commission already signaled its acceptance of electronic authorization in *In re the Commission’s Review of Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014) at 18,

where the Commission noted that release by email was sufficient, stating, “ \* \* \* authorization for release of customer energy data should be done in written form or by email.” As long as the electronic letter format and contents are substantially similar to the current letter of authorization and the electronic signature of the customer is required, the Commission believes electronic authorization functions as a sufficient form of customer consent.

{¶ 94} DP&L recommends one more change, an amendment to subsection (I)(2), revising it to allow for a customer to cancel a change to the customer’s supplier of electric service by an EDU-website link, which would be provided on the supplier change notice. DP&L states that it already allows for cancellation to occur via its website and believes this option is more customer-friendly and should be reflected in the written summary of the customer’s rights and obligations. (DP&L Comments at 6-7.) OCC opposes this amendment for the same reasons stated above in its opposition to an amendment to subsection (F)(3) (OCC Reply Comments at 10-11.)

{¶ 95} The Commission rejects DP&L’s suggested amendment. The Commission is satisfied with the existing rule and requirement regarding customers needing to call the phone number listed on the notice in order to rescind their CRES provider contract.

{¶ 96} RESA/Direct recommend adding proposed subsection (G) and (H) to the customer bill of rights and obligations. RESA/Direct recommend that customers should be informed that their electric utility is required to provide a standard service offer (SSO). Also, they recommend that customers should be informed that they are not required to take service under the SSO but, instead, generation is a competitive service that customers have the right to shop for, if they so choose. RESA/Direct believes these statements make it easier for customers to comprehend the customer choice model, and the statements better align with state energy policy and the Commission’s responsibility to educate customers about the electric service industry’s restructuring. (RESA/Direct Joint Comments at 2-3.) AEP Ohio opposes this amendment, stating that it already notifies customers about their ability to shop for generation service and provides that information on its website (AEP Ohio Reply

Comments at 6). FirstEnergy also opposes the amendment, stating that RESA/Direct's suggestion overlooks FirstEnergy's current customer bill of rights, which aligns with Ohio's current policy and the Commission's responsibility to educate consumers.

{¶ 97} The Commission rejects RESA/Direct's proposed language to help ensure that that customers are more fully informed about the option to shop for generation service and agrees with the EDUs that the current customer rights and obligation notice requirements, as well as the notices used by the EDUs, adequately inform customers about their ability to shop for generation.

***I. Ohio Adm.Code 4901:1-10-14 – Establishment of Credit for Applicants and Customers***

{¶ 98} DP&L, AEP Ohio, and FirstEnergy note that, considering Staff's edits making this rule applicable to only nonresidential customers, a portion of subsection (C)(1) and all of subsection (I)(3) still contain references to residential customers and, thus, should be revised accordingly (DP&L Comments at 6; AEP Ohio's Reply Comments at 7; FirstEnergy Comments at 5; First Energy Reply Comments at 10).

{¶ 99} The Commission agrees with the EDUs' recommended amendments. Therefore, the rule has been revised accordingly.

{¶ 100} AEP Ohio proposes that subsection (E)(1) should be amended, and subsection (G)(1) amended to remain consistent with (E)(1)'s amendment, to increase the deposit amount for non-residential customers from 130% to 200% of a typical bill. AEP Ohio argues that, by the time non-residential customers receive a disconnect notice and are physically disconnected, the amount the customer owes usually represents at least 60 days of service, so the deposit should cover these two months of service. (AEP Ohio Comments at 9-10.) FirstEnergy supports AEP Ohio's proposal (FirstEnergy Reply Comments at 10). Republic Steel, a large customer of AEP Ohio that operates two steelmaking facilities in AEP Ohio's service territory, opposes AEP Ohio's suggested amendment, claiming that Republic Steel would be subject to unjust, unreasonable, and unduly burdensome revised rules governing credit. Republic Steel first notes that AEP Ohio's rationale for its proposed

change is misguided because the credit requirement exists for situations when a customer is establishing service or reestablishing service, not for the disconnection process, as indicated by AEP Ohio. Republic Steel also notes that a customer must remain in good standing for two years for the credit to be returned to the customer, and the current credit amount already could equal hundreds of thousands of dollars, or even millions of dollars, all while AEP Ohio holds the funds for the two-year period. Republic Steel argues that increasing the amount of credit will only exacerbate the burden on large customers. Also, Republic Steel argues that AEP Ohio's concerns are unwarranted and without merit because it mischaracterizes the Commission's disconnection procedures under Ohio Adm.Code 4901:1-10-17, and AEP Ohio already is compensated for any delay in past due payments through late payment fees accrued while an account may be pending disconnection.

{¶ 101} The Commission notes that the limit for which an EDU may charge for a cash deposit for security purposes is set by R.C. 4933.17(B) as 130%. Therefore, changing this rule, as recommended by AEP Ohio and FirstEnergy, would require a statutory change, which is outside of the purview of rule-making. Plus, at this time, the Commission believes 130% is an adequate deposit amount.

***J. Ohio Adm.Code 4901:1-10-15 – Reasons for Denial or Disconnection of Nonresidential Service***

{¶ 102} AEP Ohio recommends amending subsection (G), regarding non-residential customers avoiding disconnection of services when a complaint is registered with the Commission call center or a formal complaint is filed that reasonably asserts that a bona fide dispute exists. AEP Ohio suggests that a bona fide dispute should exist between the utility and a non-residential customer only after a formal complaint is filed with the Commission, instead of when an informal complaint is filed, as the current rule mandates. (AEP Ohio Comments at 10.) Republic Steel opposes AEP Ohio's amendment, first arguing that AEP Ohio's stated rationale, that a customer should not be able to avoid disconnection if the customer simply submits a question or informal complaint with the Commission, mischaracterizes the current rule since a simple question most likely would not "reasonably assert a bona fide dispute." Second, Republic Steel argues that the formal complaint process

is lengthy and costly, especially considering a large company/customer must hire an attorney to appear before the Commission, and the window in which the bill is due and disconnection pending leaves Republic Steel no time to investigate the facts and try to resolve the dispute informally. Finally, Republic Steel argues that requiring a large customer to immediately file a complaint to avoid disconnection will cause unnecessary complaints to be filed and contravenes the informal processes in place/promoted by existing rules.

{¶ 103} The Commission agrees with Republic Steel’s reasoning and adds that most bona fide disputes are resolved through informal mediation before reaching a formal complaint stage, making it inadvisable to discourage early stage negotiations as a tool for resolving such disputes.

{¶ 104} AEP Ohio also recommends amending subsection (H) by removing “and the property owner is otherwise subject to disconnection.” AEP Ohio believes subsection (H), in its current form, is unclear. AEP Ohio also states that a utility should be permitted to disconnect service when a customer moves out of a given service location, but, if the property owner has a tenant reversion agreement, AEP Ohio would not disconnect service unless the landlord/owner so requests. (AEP Ohio Comments at 10-11.) DP&L and FirstEnergy support AEP Ohio’s recommendation, though FirstEnergy believes the Commission should clarify that the rule would apply only when the customer moves out of a location, and a new applicant is not on record (DP&L Reply Comments at 9; FirstEnergy Reply Comments at 10).

{¶ 105} The Commission agrees with AEP Ohio’s suggestion in concept, as well as FirstEnergy Ohio’s suggestion. The rule has been revised to read, “When the customer has moved from the service location and no new applicant is on record.”

**K. Ohio Adm.Code 4901:1-10-16 – Notice of Disconnection of Nonresidential Service**

{¶ 106} AEP Ohio recommends revising subsection (A) to allow an electric utility to provide nonresidential customers with written notice of pending disconnection by either



U.S. mail or electronic mail. AEP Ohio states that this revision better reflects modern methods of communication. (AEP Ohio Comments at 11.) FirstEnergy supports AEP Ohio's recommendation (FirstEnergy at 10).

{¶ 107} The Commission does not support AEP Ohio's proposed addition. The addition does not reflect the fact that customers currently must affirmatively consent to the option of receiving electronic mail. This amendment ignores this requirement, and, therefore, the Commission declines to adopt it.

***L. Ohio Adm.Code 4901:1-10-17 - Payment Schedule and Disconnection Procedures for Nonpayment by Nonresidential Customers***

{¶ 108} AEP Ohio recommends amending subsection (B) by including a sentence at the end of this subsection to mirror the change Staff made when updating the residential disconnection rules to recognize remote disconnect and reconnect capabilities (AEP Ohio Comments at 11). DP&L and FirstEnergy support AEP Ohio's recommendation, and FirstEnergy notes that the additions recognize the emergence of smart meters' ability to remotely disconnect and reconnect (DP&L Reply Comments at 9; FirstEnergy Reply Comments at 11).

{¶ 109} The Commission agrees with AEP Ohio's recommendation to mirror the proposed residential disconnection rules. In addition, the Commission recognizes Ohio Adm.Code 4901:1-18-06(A)(1), which, in part, states that "No disconnection for nonpayment shall be made after twelve-thirty p.m[.]" Accordingly, the Commission accepts AEP Ohio's new language, in part, but changes AEP Ohio's proposed timing from "three-thirty p.m." to "twelve-thirty p.m." to remain consistent with the above rule. Even if a meter has remote reconnection capabilities, customers should not be limited on the time they have available to go to a bank or payment center.

***M. Ohio Adm.Code 4901:1-10-18 - Annual Report***

{¶ 110} DP&L recommends amending subsection (A). DP&L states that it understands the rules intend to establish that the utility must reconnect service no later than

the close of the following business day unless the customer requests the reconnection to occur at a later time. As written, however, the rule could be interpreted to require that a nonresidential customer is able to request the reconnection to occur at a time prior to close of the following business day. DP&L proposes revising the first clause to read, “Unless a nonresidential customer requests the reconnection to occur at a later time in which the utility company regularly performs service reconnections, an electric \* \* \* .” (DP&L Comments at 7.)

{¶ 111} The Commission agrees with DP&L’s change and the rationale provided. The rule has been revised accordingly.

**N. Ohio Adm.Code 4901:1-10-19**

{¶ 112} AEP Ohio recommends deleting subsection (D) in its entirety to reflect that disconnection notices include both regulated and CRES provider charges. AEP Ohio argues that if disconnection notices did not include both regulated and non-regulated (CRES) charges, then the customer would not pay the right amount to avoid disconnection. (AEP Ohio Comments at 11-12.) OCC opposes AEP Ohio’s recommendation because it would allow utilities to disconnect residential customers for non-payment of non-regulated charges, which would violate R.C. 4928.10(D)(3). OCC argues that, in *In re the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric security Plan*, Case Nos. 13-2385-EL-SSO and 13-2386-EL-AAM, Opinion and Order (Feb. 25, 2015) at 82, the Commission found that customers cannot be disconnected for non-payment of non-regulated charges because doing so would be inconsistent with R.C. 4928.10(D)(3). (OCC Reply Comments at 11-12.)

{¶ 113} DP&L proposes a change for the same provision, subsection (D), recommending that CRES charges be excluded from being separated out on the disconnection notice to prevent increased customer service disconnections. DP&L states that customer payments are applied first to past due CRES charges before past due electric utility charges, according to payment priorities. DP&L is concerned that, by separating out the regulated and non-regulated charges, customers may be more likely to withhold

payments for CRES charges and instead pay towards utility charges without realizing the consequences of doing so. (DP&L Comments at 7-8.) AEP Ohio opposes DP&L's suggestion stating that, even if a customer pays only the past due EDU charges, the customer will still be disconnected because of the payment posting priorities in Ohio Adm.Code 4901:1-10-22 and 4901:1-10-33 (AEP Ohio Reply Comments at 7). OCC opposes DP&L's proposed amendment for the same reasons it opposed AEP Ohio's suggested amendment above (OCC Reply Comments at 11-12).

{¶ 114} The Commission does not agree with AEP Ohio's proposed deletion or DP&L's suggested revision. Combining the two charges may lead to customer confusion about their rights concerning disconnection, considering Ohio Adm.Code 4901:1-18-10(D) prevents a utility from disconnecting service for failure to pay any non-tariffed service charges, including CRES charges. Requesting an exemption from this provision is most appropriate by way of a waiver request, instead of by a unilateral rule, since the Commission can weigh the specific reasons why such a waiver may be warranted.

***O. Ohio Adm.Code 4901:1-10-20 - Fraudulent Act, Tampering, and Theft of Service***

{¶ 115} Staff's proposed amendment to subsection (C)(1) removes the requirement that written notices must be hand-delivered to the customer at the service location before disconnection may occur as a result of a fraudulent act, and, instead, allows the notice to be delivered or sent. AEP Ohio supports this change, as does DP&L (AEP Ohio Comments at 12; DP&L Comments at 8). However, DP&L proposes that an electric utility should be able to mail this notice to the customer at an alternative mailing address provided by the customer (DP&L Comments at 8). OPAE opposes Staff's proposal because it eliminates another consumer protection, further arguing that, if a crew is dispatched to a home to physically prevent a customer from further tampering, the crew member can hand deliver the notice at that time (OPAE Reply Comments at 1-2).

{¶ 116} The Commission notes that Ohio Adm.Code 4901:1-18-06(A)(2) requires that notice prior to disconnection be served at the service location; therefore, DP&L's suggestion

concerning an alternate mailing address is rejected. The Commission accepts Staff's proposal.

{¶ 117} AEP Ohio recommends amending subsection (B)(2) so that EDUs would not be required to tag, seal, lock, or remove the customer's meter when disconnecting for reasons defined in this rule. AEP Ohio states that the amendment would reflect operational changes with respect to remote disconnection. (AEP Ohio Comments at 12.) DP&L and FirstEnergy both support AEP Ohio's recommended change because the change recognizes the emergence of a smart meter's ability to disconnect and reconnect remotely and physically tagging or sealing meters is not always practical in these instances (DP&L Reply Comments at 9-10; FirstEnergy Reply Comments at 10-11).

{¶ 118} When it is discovered that service is on due to tampering or unauthorized reconnection, the Commission finds it pivotal that an EDU physically visit the premises to visually inspect the meter prior to disconnecting service. Attempting to remotely disconnect a meter that has been tampered with may present safety issues. Therefore, the Commission declines to adopt AEP Ohio's proposal.

{¶ 119} AEP Ohio recommends adjusting requirements in subsection (C)(2)(d)(i), a provision that establishes the timing of when an electric utility may disconnect service after claiming service was connected or continued due to the customer's fraudulent act. AEP Ohio recommends revising the rule so that the customer must respond within five business days after the notice is mailed. AEP Ohio then recommends revising subsections (C)(3)(a) and (b), provisions detailing the circumstances in which service may be disconnected, to recognize this shift in timing. AEP Ohio argues that these changes are sensible because, currently, the utility does not know when the customer physically receives the notice. (AEP Ohio Comments at 12-13.)

{¶ 120} Similarly, DP&L recommends amending subsections (C)(3)(a) and (b) claiming that determining the date on which notice is delivered is costly for utilities. Accordingly, DP&L proposes that the Commission should create a presumption that

notifications sent by regular, U.S. mail are deemed delivered three business days later. (DP&L Comments at 9-10.)

{¶ 121} The Commission agrees with AEP Ohio's suggested revisions for subsections (C)(2)(d)(i) and (C)(3)(a) and (b). Accurately estimating the timing of mail delivery, especially when not sent by certified mail, is a burdensome task and, here, is exacerbated by the fact that that delivery time is the basis upon which disconnection can occur. Therefore, the Commission adopts AEP Ohio's suggestions over DP&L's because the revisions are simpler and clearer, allowing ease of understanding for all parties.

***P. Ohio Adm.Code 4901:1-10-21 – Customer Complaints and Complaint-Handling Procedures***

{¶ 122} AEP Ohio recommends amending subsection (C) to allow EDUs five, instead of three, business days to provide their status reports on recently received customer/consumer complaints, which will make this provision consistent with subsection (D)'s five business day requirement (AEP Ohio Comments at 13).

{¶ 123} The Commission acknowledges AEP Ohio's request for consistency. The Commission believes a reasonable solution to obtain this consistency is to amend subsection (D) to require status reports on complaint investigations every three business days, instead of five, if the complaint is not resolved within ten business days after receipt.

{¶ 124} AEP Ohio also recommends amending subsections (H)(3) and (4) to reflect its opinion that, in situations involving slamming complaints, the CRES provider should be Staff's contact for resolving a complaint rather than the EDU (AEP Ohio Comments at 13-14). Duke supports AEP Ohio's recommendation (Duke Reply Comments on 4). OCC opposes AEP Ohio's recommendation, arguing that an EDU must be involved in resolving a slamming complaint because the requirements for a CRES provider to operate are governed by the provider's tariff with the EDU (OCC Reply Comments at 12). OCC and RESA/Direct also claim that removing the EDU from the process would unnecessarily complicate and delay the investigation. (OCC Reply Comments at 12; RESA/Direct Joint reply Comments at 4-5).

{¶ 125} The Commission disagrees with AEP Ohio and Duke. The Chapter 10 rules are intended to regulate the EDUs and not to dictate procedure for CRES providers to whom other rule chapters are devoted, let alone meant to dictate procedure for Staff. To RESA/Direct's point, removing the EDU from the investigation process would unnecessarily complicate and delay the investigation.

*Q. Ohio Adm.Code 4901:1-10-22 – Electric Utility Customer Billing and Payments*

{¶ 126} Most of the parties commented on the proposed deletion of subsection (B)(16) and the addition of subsection (K), both concerning the billing of non-tariffed, non-regulated services (i.e. non-commodity goods and services). Staff's proposed changes prohibit bills issued by EDUs from containing charges for non-commodity goods or services from a third-party or EDU. Most commenters discussed Staff's proposal regarding this issue together with Staff's similar changes to Ohio Adm.Code 4901:1-10-33, the consolidated billing requirements. At the outset, the Commission notes that the June 17, 2019 Commission Entry, opening the Staff's proposed rules for comments, inadvertently left Ohio Adm.Code 4901:1-10-33(C)(9) in the rule; however, to remain consistent with the proposed deletion of Ohio Adm.Code 4901:1-10-22(B)(16), Staff intended to remove subsection Ohio Adm.Code 4901:1-10-33(C)(9) from that rule. The Commission apologizes for this oversight, especially considering the error spurred confusion and vigorous debate among the commenting parties.

{¶ 127} OCC supports Staff's proposal that EDUs and CRES providers be prohibited from placing charges for non-commodity goods and services on an EDU-bill (OCC Reply Comments at 14).

{¶ 128} AEP Ohio opposes the proposed amendments because it currently lists non-commodity charges on its bills, and it is not aware of any concerns with continuing to bill for non-commodity charges. If the edits are accepted, AEP Ohio suggests that programs that existed before the rule change should be grandfathered-in and allowed to be listed on bills. (AEP Ohio Comments at 15.)

{¶ 129} DP&L also opposes the proposed amendments, stating that the amendments conflict with part of the amended stipulation and recommendation approved by the Commission in its third electric security plan case whereby the Commission ordered DP&L to file an application establishing non-commodity billing and its parameters. *In re the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, et al. (DP&L SSO and ESP), Opinion and Order (Oct. 20, 2017) at 58. DP&L subsequently filed the required application on April 9, 2019, in *In re the Application of The Dayton Power and Light Company for Approval of a Non-Commodity Billing Process*, Case No. 19-860-EL-UNC, (April 4, 2019), and, further, believes that the rule change will undermine the approved agreements above, rendering DP&L's recent filing moot. (DP&L Comments at 9.)

{¶ 130} Duke opposes the proposed amendments as well, arguing that the changes would eliminate existing flexibility for utilities to provide customers with innovative products offered by the utility or third-party, that it would limit transparency for consumers, and that it disregards the best interest of consumers since they must manage multiple bills instead of one. Duke further argues that Ohio Revised Code Chapters 4905 and 4928 offer no basis for prohibiting non-commodity charges from appearing on a utility customer's bill and claims that providing a single bill with such charges included accomplishes Ohio's policy for bill transparency better than would separate bills. Duke states that this restriction is especially unfair since Ohio Adm.Code 4901:1-21-14 and 4901:1-21-18, along with Commission precedent in *In re the Commission's Review of the Purchase of Receivables Implementation Plan for Ohio Power Company*, Case No. 15-1507-EL-EDI, Finding and Order (Sept. 27, 2017), preserve CRES providers' ability to issue bills including non-commodity service. (Duke Comments at 5-6.; Duke Reply Comments at 7.) AEP Ohio supports Duke's comments opposing the proposed amendments (AEP Ohio Reply Comments at 9, 11). IGS also agrees with Duke's assertions (IGS Reply Comments at 2). However, IGS disagrees with Duke's assertion that the law intends that fair/equal treatment must exist between EDUs and CRES providers, claiming that no blanket requirement exists whereby EDUs and CRES providers must be treated equally with respect to non-commodity

charges. IGS argues that Ohio law requires EDUs to provide non-commodity services through an affiliate to prohibit the EDU from leveraging its monopoly distribution assets for the benefit of their own unregulated non-commodity assets. IGS further adds that, unlike CRES providers, who must pay all costs associated with issuing a customer bill, Duke's billing system is paid for by distribution customers, so Duke should not be permitted to use such a monopolized asset as a platform to make unregulated profits for its own benefit. Finally, IGS notes that customers of EDUs may be confused by non-commodity charges listed on an EDU's bill to the point of believing that these charges must be paid to prevent service disconnection, whereas such confusion would not result for CRES provider customers. (IGS Reply Comments at 2-3.)

{¶ 131} First, RESA/Direct, as mentioned under the section reviewing Ohio Adm.Code 4901:1-10-01, believes non-commodity goods and services should be changed to "nonelectric good or service." RESA/Direct also opposes the proposed amendments, claiming that EDUs should be allowed to list CRES providers' or other separate entities' non-commodity charges on bills. RESA/Direct agrees that Ohio law does not allow EDUs to charge for non-commodity goods or services but believes R.C. 4928.17 allows an EDU to include charges on the utility bill for nonelectric products and services offered by an affiliate of an EDU—RESA/Direct understands this allowance to also mean that non-affiliated entities then must be able to list charges on bills as well. RESA/Direct states that no need exists for a rule prohibiting what is already prohibited by statute, or a rule that limits for CRES providers what already is allowed. RESA/Direct also rejects the proposal since it believes Staff's wording and definitions are unclear. (RESA/Direct Comments at 8-11; RESA/Direct Reply Comments at 3.) In its reply, RESA/Direct reiterates that the proposals are unclear, demonstrated by the divergent comments from all parties, and that a more appropriate venue for developing this rule is through each EDU's separate corporation separation docket and/or by holding another workshop to develop the rule (RESA/Direct Reply Comments at 3). In its reply, DP&L specifically requests that the Commission does not recognize RESA/Direct's suggestion that the rules should prevent EDUs from offering non-commodity goods and services. DP&L notes that "non-commodity services" is a



broader term than nonelectric services, so adopting a blanket prohibition of non-commodity goods and services billings would contradict the notion established in R.C. 4928.01(B), 4928.03, and 4928.04 that EDUs are permitted to offer retail electric service unless otherwise declared to be competitive. DP&L reiterates that all confusion can be obviated by replacing “non-commodity goods and services” with “nonelectric products and services.” (DP&L Reply Comments at 11-12.)

{¶ 132} IGS comments primarily address the oversight referenced above at the beginning of this section. IGS contends that the amendments demonstrate the Commission’s support for CRES providers to place non-commodity goods and services on bills since subsection (B)(16) was deleted for EDU-only billing while its analog in Ohio Adm.Code 4901:1-10-33, which addresses consolidated billing, remained intact. IGS does recommend that “from a third party supplier or the EDU” be deleted from subsection (K) to align with what IGS sees as the Commission’s signaling in Ohio Adm.Code 4901:1-10-33 that CRES providers may charge for non-commodity goods and services. IGS also addresses amendments to Ohio Adm.Code 4901:1-10-33, which will be examined in this Order under that section. (IGS Comments at 3-6.) In its reply, Duke states that there is no reason to believe the Commission intended what IGS claims above, and argues that IGS’s logic is faulty, considering IGS’s argument rests on a conclusion that CRES providers are allowed to charge for non-tariffed, non-regulated products or services on consolidated bills, which, Duke argues, is not true. (Duke Reply Comments at 6-7.)

{¶ 133} IGS also provided recommendations regarding non-commodity goods and services, including using the term “nonelectric product or service” in place of Staff’s proposed terms. IGS recommends adopting the same provision found in Ohio Adm.Code 4901:1-10-24(D)(1), requiring notice to customers that they will not be disconnected for failure to pay these charges. IGS also recommends adopting rules that require any CRES provider placing these types of charges on bills issued by EDUs to pay the EDU for any system upgrades necessary to bill for such services. (IGS Comments at 5-6.) FES opposes IGS’s recommendation concerning a CRES provider paying for EDU system upgrades

because such a rule would force the first CRES provider who provides these products and services to pay for all required EDU upgrades even if the upgrades benefit the entire industry. FES also states that all customers may benefit from the upgrades associated with non-commodity billing. An upgrade to an EDU billing system in this instance would also benefit non-shopping customers, so it would more appropriately be established on a non-bypassable basis. (FES Reply Comments at 1-2.)

{¶ 134} IGS also recommends rules that prevent unreasonable preferences or competitive advantages. IGS recommends that any new rules adopted by the Commission do not violate the statutory prohibition on unreasonable preferences or advantages given by the public utility to another entity, as found in R.C. 4905.35(A) and 4928.17(A)(2). IGS believes that when EDUs provide bill access for non-commodity goods and service only to itself or certain hand-selected entities, the EDU is acting without a reasonable basis and is conducting itself in discriminatory manner—in violation of the above statute. IGS points to a recent decision by the Pennsylvania Public Utilities Commission who found that Columbia Gas of Pennsylvania (COPA) was unreasonably discriminating against suppliers by only allowing former COPA affiliates to use the utility bill for non-commodity billing. (IGS Comments at 6-8.)<sup>1</sup>

{¶ 135} The Commission declines to adopt Staff's proposed outright prohibition of EDUs being able to list "non-commodity goods and services" charges on EDU-only bills under Ohio Adm.Code 4901:1-10-22 and finds that keeping subsection (B)(16) as is, with revision only to replace the phrase "non-tariffed, non-regulated service" with the term "non-jurisdictional services," is appropriate. However, the Commission does acknowledge IGS's concern about unreasonable preferences and competitive advantages, considering the current rules have not directly addressed the situation where an EDU consistently enters into a contract only with the EDU's affiliate regarding placement of only that affiliate's non-jurisdictional service charges on the EDU's bill at the exclusion of all other potential providers. The Commission addresses this issue in the consolidated bills rules under Ohio

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<sup>1</sup> *In re Columbia Gas of Pennsylvania*, Case No. R-2018-2647577, Opinion and Order (Dec. 6, 2018).

Adm.Code 4901:1-10-33. Furthermore, the Commission declines, at this time, to adopt IGS's suggestion to add another statement to the bill, advising customers that failing to pay non-tariffed, non-regulated service charges will not result in disconnection. While the Commission promotes bill transparency, we also recognize that the partial payment posting priorities in Ohio Adm.Code 4901:1-10-22(G) currently provide underlying protections for customers who only make partial payments, meaning payments would be applied to charges that could lead to disconnection before being applied to nonregulated charges, and the bill already contains contact information for the utility and the Commission in case a customer has a question regarding these charges.

{¶ 136} AEP Ohio supports Staff's proposed amendment regarding new provisions for prepaid service. While AEP Ohio supports the proposed amendment, it also recommends several revisions to the proposals as well as provides additional provisions. AEP Ohio suggests that account balance notifications should be electronic; that, to participate in prepaid service, the customer must have an AMI meter with remote disconnect/reconnect capabilities; that the customer must be given at least 24 hours electronic notice prior to disconnect for a zero or negative balance; that disconnects for zero or negative balances can only occur during normal business hours; that monthly prepaid service account statements shall be consistent with requirements indicated in subsections (C), (D), and (E) instead of just (B); and, AEP Ohio provides a list of customers that cannot qualify for prepaid services, including a "critical customer," customers who have medical certificates under Ohio Adm.Code 4901:1-18-06(C), customers enrolled in PIPP, customers who select a third party or guarantor under Ohio Adm.Code 4901:1-18-06(A)(3), customers who are on a demand-based tariff or that are taking service under a net metering tariff, and customers who are being billed under supplier consolidated billing or EDU consolidated bill ready billing. (AEP Ohio Comments at 15-16.) Furthermore, AEP Ohio asserts that prepaid service is warranted because it provides customers with control over payment amount and timing, increasing customer satisfaction. In its reply, AEP Ohio asserts that, with prepaid service, customers will not be subject to required security deposits, late or disconnect fees, or requirements that the customer pay the full amount of prior arrearages

prior to enrollment. Finally, AEP Ohio believes prepaid service should be voluntary. (AEP Ohio Reply Comments at 8-9.) OCC argues that AEP Ohio's proposals demonstrate that the Staff has not fully developed or fully considered the effects of prepaid service rules. As an example, OCC states that Staff's rules did not contemplate exempting customers with medical certificates, potentially resulting in serious threats to life and property for certain customers. (OCC Reply Comments at 13-14.) IGS opposes AEP Ohio's amendment excluding certain customers from prepaid service arguing that it is too early in the development of prepaid services for the Commission to include such limitations, especially when no rationale is provided for these rules' inclusion (IGS Reply Comments at 8-9).

{¶ 137} DP&L opposes Staff's proposed amendments, calling the prepaid services provisions premature and asserting that this issue should be addressed in the individual cases in which they are proposed. DP&L further stated that it has already proposed a prepay program that has been fully supported by testimony in *In re the Application of The Dayton Power and Light Company for Approval of its Plan to Modernize its Distribution Grid*, Case No. 18-1875-EL-GRD, et al., Direct Testimony of Thomas D. Tatham (Dec. 21, 2018). RESA/Direct supports DP&L's reasoning, especially since the proposed rules would potentially conflict with the case mentioned above, DP&L's stipulations in *In re the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, et al. (DP&L SSO and ESP), Opinion and Order (Oct. 20, 2017) at 58, and DP&L's application filing in *In re the Application of The Dayton Power and Light Company for Approval of a Non-Commodity Billing Process*, Case No. 19-860-EL-UNC, (April 4, 2019) (RESA/Direct Joint Reply Comments at 4).

{¶ 138} IGS supports Staff's proposed rules, though recommends revising the proposed language to require an EDU to allow CRES providers to offer prepaid service (IGS Comments at 10-11). In its reply, AEP Ohio opposes IGS's proposal, stating that the EDU can only offer prepaid service when the EDU knows the customer's rate, and, if the customer is billed under bill-ready or supplier consolidated billing, the EDU does not know the CRES rates to factor into the prepaid program (AEP Ohio Reply Comments at 9).

{¶ 139} OCC asserts that any rules regarding prepaid service do not belong in the billing rules since a customer who enrolls in prepaid service would not receive a bill. OCC also opposes the amendment, claiming it violates Ohio law by eliminating the rights and protections afforded to consumers under R.C. 4933.121 and R.C. 4933.122.<sup>2</sup> DP&L agrees with OCC that the Commission should not adopt rules that expressly address prepaid services, but DP&L does not agree with OCC's proposition that prepaid service violates Ohio law, maintaining that legal authority exists supporting the existence of such services. See *In re the Application of The Dayton Power and Light Company for Approval of its Plan to Modernize its Distribution Grid*, Case No. 18-1875-EL-GRD, et al., Direct Testimony of Thomas D. Tatham (Dec. 21, 2018). (DP&L Reply Comments at 11.)

{¶ 140} RESA/Direct opposes Staff's proposed rules, arguing that they are unnecessary since the appropriate venue for offering prepaid service, along with any condition or standard, is through a tariff application, as required by R.C. 4928.15 (RESA/Direct Comments at 11).

{¶ 141} OPAE opposes Staff's proposed amendments and supports OCC's rationale for opposing the rules—prepaid service violates numerous state statutes. According to OPAE, customer's due process protections are violated with these rules, especially in the circumstance when funds on a prepaid card run out and service is subsequently disconnected. OPAE worries that low-income customers will be attracted by the lack of deposit and credit check, plus other potential perks, but may fail to apprehend that problems still exist with this type of arrangement including the possibility that Home Energy Assistance Program agencies may not be able to help customers under the new payment scheme. OPAE also asserts that proponents' argument of greater control for students who move regularly and people with vacation homes is misplaced. OPAE also believes that prepay customers' meters are frequently disconnected, and, alarmingly, few utilities in the United States have released data on frequency of disconnections. OPAE

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<sup>2</sup> It appears OCC mistakenly listed natural gas provisions under R.C. 4933.12 as support for its argument; however, the Commission assumes OCC meant R.C. 4933.121, the electric provisions.

points to a study in the United Kingdom that showed frequent disconnections for prepay customers. OPAE also references *In re the Annual Report Required by R.C. 4933.123 Regarding Service Disconnections for Nonpayment*, Case No. 19-974-GE-UNC, Duke's Annual Report (June 26, 2019), where Duke reported issuing 1,036,094 final notices of disconnection to electric customers, but ultimately disconnected 42,914 electric customers, or approximately 4.1%. OPAE argues that these million customers, if on prepay, would have been disconnected. Finally, OPAE points to a study conducted by SRP, where customers for an Arizona utility reported a better overall experience (50 percent) compared to prepayment customers (44 percent) in 2010. (OPAE Reply Comments at 2-6.)

{¶ 142} At this time, the Commission does not adopt Staff's proposed rules regarding prepaid service or other rules regarding prepaid service. The Commission notes that it is interested in pursuing prepaid service and recognizes the underlying value this type of service brings to the public and utilities; however, we believe the market needs to further develop before industry-wide rules are adopted. In the alternative, EDUs may file tariff applications for the potential opportunity to offer unbundled, comparable, and non-discriminatory prepaid service. OCC, OPAE, and others mention their concerns regarding consumer protections if prepaid service is implemented. Any order approving such a program will outline the consumer protections to which the EDUs must adhere. Furthermore, OCC, OPAE, and other stakeholders will have the opportunity to intervene in those prepaid service program application cases.

{¶ 143} AEP Ohio suggests revising subsection (B)(5), which requires a notice in the utility bill addressing customer complaints and who the customer should call regarding them, by deleting it and replacing it with a reference to Ohio Adm.Code 4901:1-18-06(A)(5)(d) so that the provision is consistent with the above section in Chapter 18 (AEP Ohio Comments at 14). OCC opposes AEP Ohio's amendment, arguing that the notices do not need to be the same, as Ohio Adm.Code 4901:1-10-22(B)(5) and 4901:1-18-06 are different by design, the former appearing on a customer bill and the latter appearing on disconnection notices (OCC Reply Comments at 14).

{¶ 144} The Commission declines to adopt AEP Ohio's suggested revision. The Commission agrees with OCC's reasoning and is satisfied with the current language.

{¶ 145} Since Ohio Adm.Code 4901:1-22 applies to both residential and non-residential customers, AEP Ohio also recommends amending subsection (B)(10) to be consistent with disconnection rules for residential customers under Ohio Adm.Code 4901:1-18-06(A) and for non-residential customers under Ohio Adm.Code 4901:1-10-17(A) (AEP Ohio Comments at 14-15).

{¶ 146} Also, OPAE asserts that the Federal Trade Commission requires credit card companies to provide 21 days from the date of postmark to pay a bill, and OPAE believes retaining essential electric service is more important than a credit card, so the 21-day rule should apply to residential customers (OPAE Reply Comments at 2).

{¶ 147} The Commission is satisfied with the current language and rejects AEP Ohio's recommendation because bill delivery to customers outside of the state may take longer than those inside the state, so the Commission desires to give those customers who have bills delivered outside of the state more time to pay their bills. Furthermore, the Commission is satisfied with the current payment timeline for both types of customer; therefore, OPAE's recommendation is rejected.

{¶ 148} AEP Ohio recommends adding subsection (B)(25) that would require bills to itemize all CRES charges and to summarize the charges in one price per kWh presentation to be readily comparable to the price-to-compare, with only fees associated with a separate product or service excluded (AEP Ohio Comments at 15). IGS, RESA/Direct, and FES oppose the recommendation and argue that rules regarding CRES charges are misplaced in an EDU-only bill provision and will result in confusion (IGS Reply Comments at 9; RESA/Direct Reply Comments at 5; FES Reply Comments at 2). RESA/Direct also argues that not all CRES suppliers charge a volumetric rate for all products and services, so "one price per kWh" is not realistic (RESA/Direct Reply Comments at 5). FES also claims that CRES providers cannot always itemize all charges on a bill because many different

components of a CRES bill exists, such as transmission and ancillary charges—it would be inequitable to require separate itemization in this way when EDU customers do not receive such itemization (FES Reply Comments at 2).

{¶ 149} The Commission agrees with the CRES providers in that any rule regarding CRES charges does not belong in Ohio Adm.Code 4901:1-10-22, which specifically addresses EDU-only billing. Therefore, AEP Ohio’s recommendation is rejected.

{¶ 150} AEP Ohio also recommends revising subsection (E), regarding a customer bill payment posting and its effect on disconnection. AEP Ohio recommends removing reference to the EDU receiving customer payments at its business offices, revising other language to make the provision clearer, and requiring payment to be received prior to the open of business, instead of the close of business, on the date of disconnection listed on the notice. (AEP Ohio Comments at 16-17.)

{¶ 151} The Commission declines to adopt AEP Ohio’s requested amendments, especially concerning the elimination of the requirement that EDUs must be able to receive bill payments at their offices. The Commission believes it is not in the best interest of EDU-customers to potentially eliminate this option, if the customer would so choose it. The Commission declines to adopt AEP Ohio’s revision regarding payments needing to be received by the open of business on the date of disconnection since the current language aligns with the requirements regarding disconnection procedures in Ohio Adm.Code 4901:1-18-06.

{¶ 152} To eliminate possible discrepancies between subsection (G) and Ohio Adm.Code 4901:1-10-22(H), AEP Ohio suggests revising subsection (G) to refer only to Ohio Adm.Code 4901:1-10-22(H) with regard to payment posting priorities (AEP Ohio Comments at 17).

{¶ 153} The Commission rejects AEP Ohio’s suggestion because Ohio Adm.Code 4901:1-10-22 applies only to EDU bills and referencing the consolidated bill rule as the basis for what should be included on an EDU-only bill may result in confusion and conflict.



{¶ 154} OCC recommends adding subsection (B)(24), a provision that would require EDUs to provide the total electric costs for the customer over the preceding 12 months displayed on the bill (OCC Comments at 15). FirstEnergy opposes this recommendation and believes it is unwarranted and an undue burden on EDUs since customers can already calculate cumulative energy costs (FirstEnergy Reply Comments at 11). DP&L opposes the recommendation, as well, stating that this requirement would increase costs for EDUs, and the information is about past information and would have minimal relevancy for future bills (OCC Reply Comments at 11).

{¶ 155} The Commission agrees with the EDUs that annual costs do not need to be listed on the bill. Customers can calculate this cost themselves or contact their EDU to request the information. Therefore, OCC's recommendation is rejected.

{¶ 156} OCC claims that the number of riders and phase-in recovery charges included in customer bills makes independently verifying a customer's bill nearly impossible; therefore, OCC recommends amending this section to require each EDU to separately itemize the rider charges that customers pay. OCC states that it recognizes that listing every rider may be unreasonable, so it suggests that the Commission identify a dollar per month threshold which if exceeded must be shown by line-item on customer bills. Also, OCC suggests that the Commission require rider costs that provide direct reliability benefits to consumers, such as distribution infrastructure modernization riders, grid modernization riders, and tree-trimming riders, be listed on monthly bills. (OCC Comments at 14.)

{¶ 157} AEP Ohio, DP&L, Duke, and FirstEnergy all oppose OCC's recommendation above, essentially arguing that such a requirement would be unreasonable, unduly burdensome, create customer confusion, and provide no commensurate benefit to consumers (AEP Ohio Reply Comments at 7; DP&L Reply Comments at 10; Duke Reply Comments at 5; FirstEnergy Reply Comments at 11). AEP Ohio points out that OCC undermines its own argument by admitting that listing every rider on a bill would be unreasonable, and AEP Ohio notes that OCC's stated goals, to provide transparency and to allow customers to independently verify their bills, is not accomplished if certain riders are

excluded from the bill (AEP Ohio Reply Comments at 7). DP&L states that customers can visit the “Understanding Your Bill” link on DP&L’s website to view an explanation of every rider and requiring this listing would increase costs for billing (DP&L Reply Comments at 10). FirstEnergy and Duke also agree that this change would result in an increased billing cost, with Duke highlighting that OCC does not know the capabilities of each EDU’s billing systems (FirstEnergy Reply Comments at 11; Duke Reply Comments at 5).

{¶ 158} As it relates to OCC’s proposal, the Commission agrees with the reasoning set forth above by the EDUs—such a requirement would be unreasonable. However, the Commission does agree with OCC regarding the barriers customers face when it comes to verifying their bills. Accordingly, a new rule, subsection (C), has been added to this section requiring each EDU to publish and maintain an online active bill calculator that shows each and every rate or charge and permits customers to enter their billing determinates to determine the accuracy of their bill.

{¶ 159} OCC also recommends adding a subsection requiring EDUs to record shadow-billing data and make such information available to the Commission, OCC, and the general public. According to OCC, shadow-billing data compares the difference between the electric utility’s SSO and the rates charged by CRES providers to determine the total savings or spending by shopping for generation service from an electric marketer. (OCC Comments at 12.)

{¶ 160} RESA/Direct and IGS both oppose this recommended amendment (RESA/Direct Reply Comments at 8-9; IGS Reply Comments at 6-8). RESA/Direct contends that a company can agree to engage in shadow billing by agreement if it so chooses, as Columbia Gas of Ohio did in Case No. 08-1344-GA-EXM, but the practice should not be mandated for an entire industry by rule. *In re the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted Columbia Gas of Ohio, Inc. in Case No. 08-1344-GA-EXM*, Case No. 12-2637-GA-EXM, Opinion and Order (Jan. 9, 2013). RESA/Direct also believes that OCC’s proposal, to require EDUs to turn over compiled customer usage data to a governmental agency, requires an invasion of privacy that contradicts OCC’s

privacy concerns raised in comments for Ohio Adm.Code 4901:1-10-24 regarding worries about usage data being transmitted by EDU's without customer written consent. Furthermore, RESA/Direct argues that value does not equate to cheaper rates for some customers, as some customers shop for a specific suite of generation products (e.g. all renewable products) or other offers/deals. RESA/Direct asserts that OCC's proposal equates value with rate charged, which is incorrect, and the proposal is not an accurate measure of the success or failure of competition. (RESA/Direct Reply Comments at 8-9.) IGS opposes OCC's proposal for similar reasons as does RESA/Direct. IGS argues that OCC misrepresents the benefits of the retail market by claiming that lower prices are the only benefit customers receive from competition. According to IGS, customers may shop for CRES providers for a variety of reasons, such as for certain incentives, prepay options, and risk-mitigating multi-year contracts. OCC's proposal to focus on the rate-charge would cause confusion for and harm to consumers when consumers try to compare certain CRES provider products and services with others because the comparisons would not encompass the true value of CRES offerings. Furthermore, IGSs argues that this shadow billing data will be fruitless since it is backward looking data about a fluctuating market. (IGS Reply Comments at 6-8.)

{¶ 161} AEP Ohio, DP&L, and FirstEnergy all oppose OCC's shadow billing proposal (AEP Ohio Reply Comments at 7-8; DP&L Reply Comments at 10; FirstEnergy Reply Comments at 11). AEP Ohio and DP&L argue that the proposal is costly, unnecessary, and confusing for customers, and AEP Ohio reiterates that CRES charges should be stated in cents/kWh for all charges associated with CRES service (AEP Ohio Reply Comments at 7-8; DP&L Reply Comments at 10). Further, AEP Ohio states that EDUs only possess information for customers who are billed under a rate-ready scenario, where if customers are billed under bill ready or dual billing the EDU does not know the rates charged by a CRES provider and, therefore, cannot quantify how much customers are saving or spending (AEP Ohio Reply Comments at 7-8). FirstEnergy believes OCC's proposal is unwarranted because customers can discover shadow billing information themselves, and it would be costly to implement (FirstEnergy Reply Comments at 11).

{¶ 162} The Commission agrees with the EDUs that OCC's shadow billing requirement is unnecessary. The price-to-compare is already on the customer's bill, and it allows the customer to calculate total savings or spending themselves without the need for EDUs to provide them in an annual report. In addition, the applicable SSO rate is now displayed on the Commission's "apples to apples" website, which is available at [energychoice.ohio.gov](http://energychoice.ohio.gov). Therefore, OCC's recommendation is rejected.

{¶ 163} DP&L raises concerns regarding consolidated billing for utility services provided by a third-party, specifically Arcadia Power. DP&L recommends amending subsection (I)(4) of the EDU-only bills rules (and its analog in the consolidated billing rules) to ensure utilities are not held responsible for the actions of a third party over which it has no control. DP&L notes that, although it has not received complaints about Arcadia Power, it has a general concern for customers serviced by a third party which is neither a party to a billing services agreement with the utility nor subject to the consolidated billing requirements in Ohio Adm.Code 4901:1-10-33 or 4901:1-21-18. DP&L worries that these customers may not be afforded the same protections as other customers who receive a consolidated bill from their utility or CRES provider. (DP&L Comments at 10-11.) AEP Ohio supports DP&L's amendment and believes that an EDU should not be responsible for a third party's actions when a customer provides that third party access to the customer's data (AEP Ohio Reply Comments at 9). IGS opposes DP&L's proposal, stating that no evidence exists showing Arcadia Power's business model violates Commission's rules, plus the proposal would interfere with consumer preferences for the manner in which they are invoiced and pay for retail electric service. IGS also notes that these entities are not required to abide by the same consumer protections as the EDUs and CRES providers, as no evidence suggests they are engaging in activities as power brokers or marketers, as defined in Ohio Adm.Code 4901:1-21-01(DD) and (FF). Finally, IGS asserts that, if the Commission wishes to explore whether it has jurisdiction over these entities, the Commission should do so in a separate docket. (IGS Reply Comments at 4-5.)

{¶ 164} The Commission notes that the amendment DP&L proposes does not concern EDU-only bills, which this section addresses. Therefore, DP&L's concern does not apply to this section, and its recommendation is rejected. The Commission notes that the intent of this rule is to ensure that a utility that allows customers to access their bills on its website must develop a secure registration process that allows a customer to view the bill while also guarding against unauthorized account access. The Commission believes that the utility should have the wherewithal to track when an account was accessed without customer permission and make the changes needed to secure the site. The Commission understands that the utility cannot control every situation, such as when a customer provides someone else with the customer's password for bill access; however, the rule is not intended to address authorized third-party access to customer bills. At this time, the Commission declines to adopt DP&L's suggestion.

***R. Ohio Adm.Code 4901:1-10-24 – Customer Safeguards and Information***

{¶ 165} Staff proposes to amend subsection (F)(4) to require EDUs to display on the EDUs' websites for customer use, customer information listed on CRES pre-enrollment lists. FirstEnergy objects to Staff's revision because FirstEnergy believes the changes could be read in a way that conflicts with customers' privacy—listing private information about specific customers. However, FirstEnergy remarks that, if Staff's intention was to make available to customers a list of categories of information available to CRES providers on the pre-enrollment list, the Commission should replace "list" in the Staff's proposed amendment with "categories." (FirstEnergy Comments at 5-6.) AEP Ohio states that it shares FirstEnergy's customer privacy concerns, and it opposes Staff's proposed rules (AEP Ohio Reply Comments at 10).

{¶ 166} The Commission agrees with FirstEnergy Ohio's comments and concerns regarding the wording of Staff's proposed rules and the potential interpretation that private customer-specific information be listed on an electric utility's website. The Commission does not agree with AEP Ohio, however, that the proposal should be outright rejected. The Commission believes that the notice should reflect additional items that have been added to

the pre-enrollment lists included on the EDUs' tariffs. Therefore, the Commission believes FirstEnergy's suggested revision, replacing "list" with "categories," sufficiently resolves any potential issues. The rule has been revised accordingly.

{¶ 167} Staff proposes another amendment, adding subsection (H), which would allow customers to request that a CRES provider block be placed on their electric utility account whereby the block will prevent CRES providers from changing without customers first providing authorization to their electric utility. Authorization will come in the form of a confidential code provided by a customer to the utility.

{¶ 168} OPAE and OCC both support the inclusion of a customer block on customer accounts (OPAE Comments at 6; OCC Reply Comments at 17-18). OPAE first notes that the block does not impede competition but, rather, ensures a customer decision to retain an SSO is respected. OPAE also believes that this block will help prevent slamming and unscrupulous CRES providers from successfully targeting low-income, disabled, and elderly customers who are the most vulnerable to CRES salespeople's techniques. (OPAE Comments at 6). OCC supports the block because it gives customers more control over their electric service provider (OCC Reply Comments at 17).

{¶ 169} FES and RESA/Direct oppose Staff's inclusion of a customer account block for several reasons, one being that it is unnecessary because slamming does not occur in Ohio (FES Comments at 1-4; RESA/Direct Joint Comments at 3-8; RESA/Direct Reply Comments at 1). FES asserts that, despite the burgeoning competitive electric marketplace in Ohio, almost no instances of slamming in Ohio have been reported. Instead, customers' complaints focus on the terms of their CRES provider contracts or on renewal rates charged by unscrupulous marketers. (FES Comments at 1-4.) In its reply, AEP Ohio disagrees with FES's claim that no evidence of slamming exists in Ohio, asserting that vulnerable populations are at-risk of unknowingly or mistakenly switching CRES providers, and the customer block would help protect these vulnerable populations (AEP Ohio Reply Comments at 10).

{¶ 170} FES, RESA/Direct, IGS, and BEB believe the block is unnecessary because the customer enrollment/verification process already set forth in Ohio Adm.Code 4901:1-21 is extensive and comprehensive enough, making slamming difficult (FES Comments at 1-4; RESA/Direct Joint Comments at 3-8; IGS Comments at 8-10; BEB Comments at 1; RESA/Direct Joint Reply Comments at 2). BEB further argues that this block is more costly and confusing for the parties involved because it duplicates the account/customer number in use, and the customer already receives a notice from the EDU if the customer is about to be switched to a CRES provider (BEB Comments at 1). IGS also argues that the step is unnecessary because rules offer pre-enrollment protections, such as Commission approval before operating in the market; third-party verification to complete enrollment; immediate post-enrollment protections, such as a seven-day contract rescission period and written notice of this period; and continuing post-enrollment protections, such as a monthly utility bill that explicitly lists the generation supplier and a customer complaint process with the Commission (IGS Comments at 8-10). RES/Direct states that Ohio Adm.Code currently prohibits the CRES provider from enrolling potential customers without their consent; requires proof of the consent be held by the provider; prohibits, as found in 4901:1-10-24(E)(1), EDUs from disclosing customer account information unless the customer has consented to its release; and, detail, as found in Ohio Adm.Code 4901:1-10-21(H), procedures for investigating and remedying slamming complaints (RESA/Direct Joint Comments at 3-8). Similar to RESA/Direct and IGS, FES outline protections for the consumer found in Ohio Adm.Code 4901:1-21 and states that the new block is unnecessary and could significantly affect the competitive market (FES Comments at 1-4). OCC argues that RESA/Direct's and IGS's arguments that the new block is unnecessary and overly burdensome is inaccurate—the block would not result in an additional burden (OCC Reply Comments at 18).

{¶ 171} FES also argues that the new blocking scheme does not address governmental aggregation programs and, therefore, is incompatible with the governmental aggregation opt-out program for which Ohio Adm.Code 4901:1-21 already extensively regulates. For example, FES explains that, with no mechanism included in the rules to alert

an aggregator when a block has been used by a customer, an aggregator will be unable to properly check whether a specific customer needs to be removed from the aggregation program due to the customer being listed on the “do not aggregate” list.

{¶ 172} Trebel, a certified governmental aggregator and broker who represents over 90 communities in the state of Ohio, supports the other CRES providers’ comments opposing this new customer block, especially FES’s concerns about the block’s negative impact on governmental aggregation programs, and submits that the proposed rule is unjust and unreasonable and should be rejected. In the alternative, Trebel argues that the rule should be amended to carve out governmental aggregation program participants from having an option to block their governmental aggregation accounts. First, similar to the CRES providers’ arguments with regard to shopping customers, Trebel argues that the rules regulating governmental aggregation, including the requirement of opt-out letters being sent to customers and a rescission period that gives the customer the choice to disenroll, are sufficient to ensure that residents who do not want to participate in the program are excluded prior to initial enrollments. Trebel also asserts that the regulated process is already confusing enough for customers, so adopting the block will exacerbate the problem. Trebel worries that the block may inadvertently prevent a customer who does not wish to receive CRES provider marketing and solicitation, but open to learning about a governmental aggregation program, from enrolling in the program since the customer would unknowingly be precluded from participating in the program due to the block. Second, Trebel claims that, if the Commission wishes to adopt the rule, EDUs can easily separate governmental aggregation accounts in enrollment lists, so carving-out governmental aggregators from the rule would be easy to accomplish. Finally, Trebel argues that there is no need for a block because the “do not aggregate” list already exists, which, if the customer chooses to be placed on the list, that customer’s account is ineligible to participate in the governmental aggregation program. If the customer inadvertently receives an opt-out letter or is enrolled in the program, Trebel states that regulations are in place that rectify the mistake. Because a list of this kind already exists, Trebel asserts that the block is duplicative, confusing, and overly burdensome. (Trebel Reply Comments at 1-7.)



{¶ 173} FES further states that the block is contrary to Ohio's stated goal to encourage electric generation competition since it imposes a roadblock that complicates the CRES provider transfer process. FES also states that customers may be confused why a block is on their account. FES argues that the block is a significant change not tied to any Ohio statute either explicitly or implicitly authorizing such action by the Commission, and it may violate the newly codified requirement, found in R.C. 121.95(A), for the Commission to cut two administrative rules for every new one adopted. (FES Comments at 1-4.) In its reply, AEP Ohio disagrees with FES that the block impedes competition, especially considering the person employing the block may have already participated in the market and maintain a CRES provider, plus, AEP Ohio notes, the block helps protect a customer from accidentally breaking a CRES provider contract, which may penalize the customer with an exit fee if the customer switches providers before a certain incentive period expires (AEP Ohio Reply Comments at 10).

{¶ 174} Similar to FES, RESA/Direct argues that the customer block is unlawful. RESA/Direct argues that, if the Commission adopts the customer block, the Commission will have operated beyond the scope of its statutory authority since the block will contravene the legislature's intent that generation shopping be available to everyone but forced on no one. Further, RESA/Direct cites *Montgomery Cty. Bd. of Comm. v. Pub. Util. Comm.*, 28 Ohio St.3d 171, 175, 503 N.E.2d 167, 170 (1986), in reference to the maxim of statutory construction, " \* \* \* the specific mention of one thing implies the exclusion of another." RESA/Direct, when comparing the statutory schemes for generation shopping and governmental aggregation programs, claims that the legislature specifically chose to implement a statutory scheme that requires shopping customers provide affirmative consent before being enrolled with a CRES provider, whereas, for governmental aggregation programs, the legislature chose to enroll customers in the program first, unless the customer decides to opt-out of the program. RESA/Direct asserts that the legislature attempted to achieve its goal of providing the availability of generation shopping for everyone in two distinct schemes whereby one customer must affirmatively consent to receive CRES and the other customer must opt-out of an aggregation program.

RESA/Direct believes the legislature intended to exclude any statutory scheme for shopping customers other than the one outlined above. The block RESA/Direct argues, is unlawful because it creates an opt-out provision for shopping customers. (RESA/Direct Joint Comments at 3-8.)

{¶ 175} FES, IGS, and RESA/Direct also oppose the block because it is vague and may cause customer confusion. Among other examples, the above CRES providers state that the language fails to address how the new code will be provided to customers, whether a new code can be issued in the event a customer misplaces the original code, how the EDU is expected to administer the system, who would coordinate with each other regarding the block, whether the process considers other programs such as PIPP or governmental aggregation programs, who qualifies as an authorized person, and whether the block follows a person who moves to a new address (FES Comments at 1-4; IGS Comments at 8-10; RESA/Direct Joint Comments at 3-8.) RESA/Direct believes that the new block sends mixed messages to customers since the Commission, on one hand, reassures customers that their supplier cannot be switched without consent, yet, on the other, forecasts that a block may be necessary to prevent unauthorized switching. As a result of the confusion, customers may believe that a block is necessary on the account to prevent switching or may incorrectly believe that placing a block on the account removes the customer from CRES marketing lists. RESA/Direct further argues that requiring customers to retain a confidential customer code is a burdensome addition to an already burdensome enrollment process. (RESA/Direct Joint Comments at 3-8.)

{¶ 176} FirstEnergy also opposes Staff's proposed amendment, claiming that it is unnecessary/redundant since the customer already must provide the customer's confidential account number to the CRES provider in order to enroll with a supplier. FirstEnergy argues that this additional step would require implementing costly information technology for the EDU. (FirstEnergy Comments at 6.) RESA/Direct supports FirstEnergy's position (RESA/Direct Joint Reply Comments at 2). OCC disagrees with FirstEnergy, stating that FirstEnergy's argument lacks merit and the customer block is warranted because

it is a consumer protection opt-in that gives customers peace-of-mind that their accounts will not be switched without proper authorization (OCC Reply Comments at 17-18).

{¶ 177} AEP Ohio supports adding a customer block like the one proposed by Staff, stating that some customers do not understand the customer choice process, which has sometimes led to CRES provider switches on a monthly basis. AEP Ohio recommends a few revisions to subsection (H) so that the customer block applies to a switch to either a CRES provider or to the SSO. AEP Ohio also includes a statement at the end of the provision clarifying that the block will remain on the account until it is removed by the customer or authorized person. (AEP Ohio Comments at 19.) OCC opposes AEP Ohio's recommendation, stating that the SSO is required by R.C. 4928.141, so no restrictions or blocks should exist that would prevent a customer from returning to the SSO (OCC Reply Comments at 17). RESA/Direct and IGS both disagree with AEP Ohio and assert that, if customers are confused by the current CRES switching process, the customer block will only exacerbate customer confusion about the process (RESA/Direct Joint Reply Comments at 2; IGS Reply Comments at 6). RESA/Direct further disagrees with AEP Ohio, stating that customers who have been switched monthly would, presumably, have a greater understanding of the choice process, not less since they would be receiving multiples of the consent disclosures (RESA/Direct Joint Reply Comments at 2). IGS asserts that customers may understand the process more than AEP Ohio represents because the customers may be knowingly switching frequently to maximize the benefits of introductory rates or initial incentives offered by different CRES providers (IGS Reply Comments at 5). IGS further argues that Ohio Adm.Code 4901:1-10-21(G) and (H), provisions regarding customer contact with an EDU about CRES issues or slamming complaints, would most likely be triggered in the scenario outlined by AEP Ohio, which would require the EDU to speak to the customer about the CRES issue, potentially obviating any initial customer confusion (IGS Reply Comments at 5-6). Also, RESA/Direct and IGS point out that AEP Ohio is an outlier among the EDUs since none of the other EDUs expressed concern or support for the customer block. (RESA/Direct Reply Comments at 2; IGS Reply Comments at 5.)

{¶ 178} Upon review of all comments offered, the Commission declines to adopt Staff's proposal to include a CRES provider switching block and agrees that current consumer protections are adequate. Exhaustive procedures are already in place to prevent CRES provider abuses, such as slamming (e.g., R.C. 4928.10; Ohio Adm.Code 4901:1-10-21(H) and 4901:1-21-08(C)). Also, consumers can register for the national "Do Not Call Registry" to prevent unwanted telemarketing calls from CRES providers or can request that the electric utility exclude their names from mass customer lists made available to CRES providers. Finally, and in response to AEP Ohio's, OCC's, and OPAE's concerns, we have already provided consumers with several layers of protections designed to prevent unwanted CRES provider switching during different stages of the sales process, such as third-party verification following in-person sales and contract rescission periods. The above regulations were specifically targeted towards the protection of vulnerable populations, such as the elderly and disabled, and we believe the rules strike an adequate balance between protecting these populations and allowing for fair competition. Therefore, the proposed additional protection is unnecessary.

{¶ 179} AEP Ohio recommends removing subsection (B), which currently requires the EDU to maintain a listing in each local telephone service provider's directory operating in the EDU's certified territory. AEP Ohio asserts that this subsection is outdated, and the utility may or may not know all of the local telephone providers operating in its service territory. (AEP Ohio Comments at 17-18.)

{¶ 180} The Commission understands that many customers most likely access an EDU's information through the EDU's website or obtain information from a utility bill; however, the Commission, at this time, finds it appropriate to keep such a requirement in the rule for people who do not have access to the Internet. The Commission has modified the rule with the intent to make it somewhat less onerous to the EDUs so that EDUs need to maintain a listing only in the incumbent local telephone exchange carrier's local telephone directory, "incumbent local exchange carrier" being defined under Ohio Adm.Code 4901:1-6-01(P). The new language reads, "Each electric utility shall maintain a listing in each

incumbent local exchange carrier's local telephone directory operating in the electric utility's certified territory."

{¶ 181} AEP Ohio recommends adding subsection (d) beneath subsection (E)(1) so that an EDU is not permitted to disclose whether or not a customer is already participating in electric choice. RESA/Direct opposes AEP Ohio's recommendation, arguing that no reason for this change was articulated. Also, RESA/Direct argues that the amendment AEP Ohio offers fails to accomplish what AEP Ohio intended because the list to which AEP Ohio adds includes circumstances where an EDU is permitted to divulge customer account information without customer consent and proof of that consent. (RESA/Direct Reply Comments at 5-6.)

{¶ 182} The Commission agrees with RESA/Direct that AEP Ohio's proposal does not accomplish what AEP Ohio intended. The Commission rejects AEP Ohio's proposal.

{¶ 183} AEP Ohio also recommends amending subsection (E)(3), which would allow EDUs to disclose, for a time-of-use rate customer, the customer's hourly usage to a CRES provider, since, as AEP Ohio claims, that information may be necessary for CRES billing purposes (AEP Ohio Comments at 18). IGS supports AEP Ohio's suggestion; however, IGS requests that "or" is placed at the front of AEP Ohio's amendment so that it reads "or as required for billing purposes[.]" IGS believes that including "or" ensures that this provision is read as a new exception and not a new limitation on a current exception, meaning customers may consent to disclosure of the customer's energy usage data for any purpose the customer desires, not just as required for billing purposes. (IGS Reply Comments at 13.)

{¶ 184} The Commission agrees with AEP Ohio and IGS's recommendations. The rule has been amended to match IGS's suggestion.

{¶ 185} AEP Ohio also recommends deleting subsection (G) in its entirety, the provision requiring EDUs to maintain an unbiased list on its website detailing the CRES providers actively seeking residential customers in the EDU's service territory. AEP Ohio asserts that this list is no longer necessary because the apples-to-apples comparisons

developed by the Commission obviate a need for the list, and AEP Ohio would just defer the customer to the comparison offered by the Commission if a customer inquired. (AEP Ohio Comments at 18.) RESA/Direct and IGS both oppose this suggestion because the benefit of the ability for customers to find CRES provider information in multiple places outweighs the burden required of the EDU in maintaining such a list (RESA/Direct Reply Comments at 6; IGS Reply Comments at 6). RESA/Direct further argues that the Commission's list is not the same list that an EDU must maintain according to the current rules. The Commission lists all suppliers licensed in EDU service territory to serve residential and small commercial customers compared to subsection (G)'s requirement that the EDU maintain a list of all active suppliers. RESA/Direct asserts that, for various reasons, not every licensed supplier is active, so an EDU maintaining such a list is crucial for customer convenience. (RESA/Direct Reply Comments at 6.)

{¶ 186} The Commission believes a compromise between AEP Ohio's and the CRES provider's positions best serves customers' and EDUs' interests. Making CRES provider information available to customers from multiple sources is beneficial to customers and having a list of active suppliers also helps further spur electric choice competition. Contrary to RESA/Direct's representations, the Commission's "apples to apples" website, available at [energychoice.ohio.gov](http://energychoice.ohio.gov), maintains a list of all certified CRES providers actively enrolling new customers in each EDU's service territory, as noted in the website's disclaimer. Therefore, the Commission finds it sufficient to require each EDU to provide a link on its website directing customers to the Commission's "apples to apples" website for a list of certified CRES providers actively enrolling new residential customers in each EDU's service territory. Subsection (G) has been amended to reflect this change. .

{¶ 187} IGS recommends revising subsection (D)(1) so that "non-tariffed or non-regulated service" is replaced with "nonelectric product or service" (IGS Comments at 5). AEP Ohio supports IGS recommendation and believes that this change is necessary to clarify that failure to pay a non-commodity good or service should not subject the account to disconnection (AEP Ohio Reply Comments at 11).

{¶ 188} The Commission declines to adopt these suggestions for the same reasons offered earlier in this section.

{¶ 189} DP&L recommends adding a subsection (d) beneath (E)(1) to allow an EDU to disclose a customer's account number for the purposes of effectuating a seamless move with a CRES provider (DP&L Comments at 12). AEP Ohio supports DP&L's recommendation (AEP Ohio Reply Comments at 10). IGS supports DP&L's recommendation, though suggests revising DP&L's amendment to read, "[c]oordination with a CRES provider to effectuate a seamless move" (IGS Reply Comments at 10). As also argued above in this Order, OCC rejects DP&L's recommendation to include a provision that adopts "seamless move" because such a mechanism eliminates the customer protection of requiring that customers affirmatively choose to transfer service, a protection adopted by the Commission in *In re the Commission's Investigation of Ohio's Retail Electric Service Market*, Case No. 12-3251-EL-COI, *In re the Market Development Working Group*, Case No. 14-2074-EL-EDI (*Market Development Working Group*), Find and Order (Feb. 7, 2018) at 13 (OCC Reply Comments at 4).

{¶ 190} As reasoned above under the section addressing Ohio Adm.Code 4901:1-10-01, the Commission has already expressed that it will not be adopting rules concerning a "seamless move," as it is too early to do so. Therefore, DP&L's and IGS's recommendation is rejected.

{¶ 191} DP&L also recommends amending subsection (E)(3) to clarify that residential customer energy usage data cannot be disclosed by a utility without prior written consent from the customer (DP&L Comments at 12). IGS supports DP&L's suggested recommendation since it will provide flexibility to customers in the way they can provide consent for release of this information, though IGS suggests subsection (E)(3) be identical to DP&L's suggestion for Ohio Adm.Code 4901:1-10-13(F)(3), which explicitly allows for consent to be provided by electronic authorization (IGS Reply Comments at 14).

{¶ 192} The Commission declines to adopt DP&L's inclusion of "residential" in this rule since the proposed amendment to Ohio Adm.Code 4901:1-10-24(E)(3) will remove "residential" from that provision. However, the Commission will adopt DP&L's request to include "electronic authorization" as a means to provide consent to the release of a variety of the customer's energy consumption data. The Commission already signaled its acceptance of electric authorization in *In re the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 12-2050-EL-ORD, Finding and Order (Jan. 15, 2014) at 18, where the Commission noted that release by email was sufficient for this subsection's analog provision in Ohio Adm.Code 4901:1-10-12(F)(3), stating, " \* \* \* authorization for release of customer energy data should be done in written form or by email." As long as the electronic letter format and contents are substantially similar to the current letter of authorization and the electronic signature of the customer is required, the Commission believes electronic authorization functions as a sufficient form of customer consent.

{¶ 193} OCC recommends that subsection (F)(6) be adopted, which would require each EDU to hire an independent auditor to audit privacy policies and practices at each EDU, with the auditor then filing the findings in a public docket. OCC believes this type of assessment should be required of all EDUs who have implemented AMI and grid modernization since this technology gives EDUs access to unprecedented granular levels of customer's energy usage patterns. OCC requests that this assessment should be required as a condition for any customer energy usage data or "'de-identified energy data'" to be disclosed outside of the EDU since privacy concerns exist with this granular-level of information as well as concerns exist with personal identity information. (OCC Comments at 17-18.) AEP Ohio, DP&L, and FirstEnergy all oppose OCC's suggested recommendation, arguing that it is unduly burdensome and costly (AEP Ohio Reply Comments at 9; DP&L Reply Comments at 13; FirstEnergy Reply Comments at 11-12). AEP Ohio asserts that it already takes precautions necessary to protect customer information (AEP Ohio Reply Comments at 9). DP&L argues that, while OCC claims the rule will only apply to EDUs that have implemented AMI and grid modernization, no such limit exists in the proposed language of the rule, which is problematic for DP&L since it has not yet implemented grid



modernization. DP&L further states that privacy issues are addressed in its distribution modernization plan filing and a Power Forward working group is already discussing data privacy issues. (DP&L Reply Comments at 13.)

{¶ 194} For the same reasons offered by the EDUs, the Commission agrees that OCC's recommendation is unnecessary, costly to implement, and overburdensome; therefore, the recommendation is rejected.

S. *Ohio Adm.Code 4901:1-10-27 – Inspection, Maintenance, Repair, and Replacement of Transmission and Distribution Facilities (Circuits and Equipment)*

{¶ 195} Staff proposed revisions to subsection (D)(1), which would require that all distribution circuits and equipment, including above-ground facilities associated with the operation of underground circuits, be inspected at least once every five years. AEP Ohio, DP&L, and FirstEnergy all oppose the rule, claiming that the changes are confusing (AEP Ohio Comments at 20; DP&L Comments at 13; FirstEnergy Reply Comments at 12). Further DP&L requests a clarification on, and AEP Ohio also notes its interest in this clarification, whether equipment needs duplicate inspections in situations where a circuit is underground and the pad mount switchgear is inspected under Ohio Adm.Code 4901:1-10-27(E)(1)(c) at the same inspection interval but different inspection years. DP&L states requiring those additional inspections will be costly, and the inspections would not materially add to reductions in outages or increases in safety. (DP&L Comments at 13; AEP Ohio Reply Comments at 11).

{¶ 196} The Commission agrees with Staff's proposed rule and believes that the edit adds clarity as to what constitutes "all distribution circuits and equipment." This change helps rectify inconsistencies Staff encounters when reconciling circuit/inspection records. With regard to DP&L's concern about duplicate inspections, the Commission's concern is that every piece of equipment gets inspected at least once every five years and does not intend to require duplicate inspections as a result of this amendment.

{¶ 197} OCC recommends a few changes to provisions in this rule. First, OCC requests that subsections (C)(2) and (D)(4) be revised to require the transmission circuit

performance reports and inspection schedule compliance reports, respectively, be filed on the Commission's public docket, claiming that it is overly burdensome to obtain these reliability-measuring reports from the Commission. (DP&L Comments at 18-19.) AEP Ohio opposes these recommendations because they provide no benefits to customers, will create customer confusion, and is otherwise unnecessary (AEP Ohio Reply Comments at 11). DP&L opposes these recommendations for the same reasons it has previously opposed OCC's requests to have certain reports filed publicly—the reports contain sensitive transmission information that should be confidential (DP&L Reply Comments at 13).

{¶ 198} As with similar recommendations from OCC described earlier in this Order, the Commission agrees with DP&L that these reports contain sensitive information that should not be filed openly on a Commission docket. Also, OCC can submit a data request through appropriate channels for this information.

{¶ 199} AEP Ohio recommends revising subsection (E)(4) to limit the requirement that all remaining deficiencies with EDUs' transmission and distribution facilities be corrected by the end of year after the inspection or testing revealing such deficiency was completed. AEP Ohio proposes limiting this requirement to deficiencies "that pose a threat to reliability." AEP Ohio states that this change will ensure the mitigation of deficiencies is not unduly burdensome or expensive. (AEP Ohio Comments at 20-21.) DP&L supports AEP Ohio's revision and reasoning (DP&L Reply Comments at 13-14).

{¶ 200} The Commission declines to adopt AEP Ohio's limitation on the type of deficiencies that must be rectified. This revision is too prescriptive, and the Commission foresees confusion resulting from the ill-defined phrasing of the limitation. However, the Commission agrees with AEP Ohio's remaining revisions made after the limitation rejected above. The Commission believes these revisions make the provision clearer and have been incorporated into the rule.

**T. Ohio Adm.Code 4901:1-10-29 – Coordination with CRES providers.**

{¶ 201} Although AEP Ohio supports Staff’s minor changes to Ohio Adm.Code 4901:1-10-29, specifically how the Ohio Department of Development Services Agency (ODSA) is listed in (I)(4), AEP Ohio suggests removing the first clause of subsection (I)(4) to reflect that ODSA has developed the program mentioned in that sentence. AEP Ohio also recommends amending subsection (I)(4) to reflect that the utility would not be able to transfer pre-PIPP arrearages to ODSA on behalf of the CRES provider where the utility is not billing on behalf of the CRES provider. (AEP Ohio Comments at 21.) IGS opposes AEP Ohio’s recommendation for subsection (I)(4), stating that the Commission should not make changes applicable to all EDUs based upon the assertion of one. Further, IGS states that the capability of CRES providers to bill customers for EDU’s charges is currently under development through pilot programs, so the Commission should maintain the current language until the supplier consolidated billing pilot programs have been implemented. (IGS Reply Comments at 14.)

{¶ 202} The Commission agrees with AEP Ohio that the first clause of subsection (I)(4) needs to be updated to reflect that ODSA had developed the program referenced in it. Therefore, the rule has been revised accordingly. With regard to AEP Ohio’s recommendation regarding pre-PIPP arrearages, and in acknowledgement of IGS’s comment, the Commission notes that supplier consolidated billing pilot programs currently exist and may address this issue, so the Commission refrains from making any changes to the rule at this time to allow the pilot programs to run their courses.

{¶ 203} In follow-up to its request for a definition for seamless move in Ohio Adm.Code 4901:1-10-01, DP&L recommends revising subsection (F)(1) to adopt seamless move in the rule. DP&L asserts that, in the Second Hearing on Rehearing *In re the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, *In re the Market Development Working Group*, Case No. 14-2074-EL-EDI (*Market Development Working Group*), Second Entry on Rehearing (March 13, 2019) at 7-8, the Commission upheld its finding that seamless move should be adopted. Using this as precedent, DP&L states

that “seamless move” should now be adopted in the rules. DP&L also recommends adding proposed subsection (F)(1)(e) to help accommodate seamless move. The new subsection would require the competitively neutral seven-day rescission notice mailed by an electric utility to a customer after the customer attempts to enroll with a CRES provider to include the electric utility’s website, which would give the customer another avenue through which to rescind the enrollment request. DP&L also recommends revising subsection (F)(4) to accommodate a “seamless move” by replacing “calls” with “contacts.” (DP&L Comments at 13-14.) IGS supports DP&L’s accommodation of “seamless move” into the rules, though suggests that “from the customer” be removed from DP&L’s suggested revision to subsection (F)(1), calling it unnecessary verbiage since a “seamless move” means a CRES provider and customer have consented to the transfer (IGS Reply Comments at 10). OCC rejects DP&L’s recommendation to include a provision that adopts “seamless move” because such a mechanism eliminates the customer protection of requiring that customers affirmatively choose to transfer service, a protection adopted by the Commission in *Market Development Working Group*, Opinion and Order (Feb. 7, 2018) at 13 (OCC Reply Comments at 4). In its reply, RESA/Direct opposes DP&L’s amendments, stating that it is unnecessary since the customer has already consented to a seamless move transfer by entering a seamless moves agreement. RESA/Direct also reiterates that the requirements for a seamless move were established under *Market Development Working Group*, Second Entry on Rehearing (March 13, 2019) at 7-8, so any technical implementation issues should be addressed in a workshop and not rulemaking. (RESA/Direct Joint Reply Comments at 7-8.)

{¶ 204} As stated above under the section addressing Ohio Adm.Code 4901:1-10-01, the Commission believes it is too early to adopt rules concerning a “seamless move”; therefore, the Commission rejects DP&L’s and IGS’s suggested revisions to subsection (F).

{¶ 205} DP&L also recommends revising subsections (I), (I)(5), and (I)(6) to replace “department of development” with “development services agency” to match similar revisions made by Staff throughout Chapter 10 (DP&L Comments at 14).

{¶ 206} The Commission agrees with DP&L concerning these revisions, replacing “department of development” with “development services agency.” The rules have been revised accordingly.

***U. Ohio Adm.Code 4901:1-10-32 – Cooperation with Certified Governmental Aggregators***

{¶ 207} AEP Ohio suggests amending subsection (A)(1), requiring coordination and transfer of specific information from an EDU to a certified governmental aggregator upon request by the aggregator, so that the list of information listed in subsection (A)(1) is updated quarterly (AEP Ohio Comments at 22).

{¶ 208} The Commission disagrees with AEP Ohio and declines to adopt the proposed addition. The Commission believes it is important for AEP Ohio to update the information contained in that list continuously since providing a list with real-time information is more beneficial for governmental aggregators who rely on this information to potentially conduct their business.

{¶ 209} AEP Ohio also recommends adding subsection (D) so that CRES providers that serve a government aggregation program must identify its customers using a governmental aggregation code provided by the EDU at the time of EDU enrollment and/or change request. AEP argues that these codes readily help the utility more effectively and efficiently administer coordination with CRES providers and governmental aggregators. (AEP Ohio Comments at 22.) FES opposes AEP Ohio’s adoption because utility lists are not always accurate regarding customers in governmental aggregation communities, such as the inclusion of non-residents, so utility lists cannot be the sole ground for implementing this rule.

{¶ 210} The Commission agrees with AEP Ohio. An EDU should attempt to maintain an accurate list of customers within the designated governmental aggregation area, but the CRES provider must scrub the list to ensure only those customers within the aggregation are enrolled. The CRES provider should be able to identify which of its customers are enrolled in governmental programs. The proposed rule is needed so that if a

governmental aggregator changes suppliers, then an EDU can identify which customers are with the governmental aggregator and which are with the CRES provider.

**V. *Ohio Adm.Code 4901:1-10-33 – Consolidated Billing Requirements***

{¶ 211} At the outset, the Commission notes that the June 17, 2019 Order, opening the Staff's proposed rules for comments, inadvertently left Ohio Adm.Code 4901:1-10-33(C)(9) in the rule, consolidated billing's analogous provision to Ohio Adm.Code 4901:1-10-22(B)(16), which Staff proposed to delete; however, to remain consistent with the deletion of Ohio Adm.Code 4901:1-10-22(B)(16), Staff intended to remove subsection (C)(9) from this rule. Furthermore, the same Order contained another error, in subsection (L), which stated that no consolidated bill format shall contain charges for non-commodity goods or services from a "thirty party of the EDU." Staff proposal intended to read "third party or an EDU." The Commission apologizes for this oversight, especially considering the error spurred confusion and vigorous debate amongst the commenting parties. Also, most of the comments regarding "non-commodity goods" and "non-commodity services" and prepaid service are the same or similar to the comments outlined above in Ohio Adm.Code 4901:1-10-22, with commenters stating the same or similar positions as they did under the previous section; therefore, we incorporate those arguments by reference, here. Comments that were specific to Ohio Adm.Code 4901:1-10-33 and/or substantially different than those comments proffered under Ohio Adm.Code 4901:1-10-22 will be addressed in this section.

{¶ 212} With regard to prohibiting non-commodity goods and services from being placed on consolidated utility bills, AEP Ohio opposes the amendment because AEP Ohio believes it is unclear why the change was proposed, that prohibiting third parties' non-commodity charges from being placed on the consolidated bill does not reflect current practices, and that AEP Ohio would prefer to continue this practice (AEP Ohio Comments at 26-27).

{¶ 213} The Commission declines to adopt Staff's proposed outright prohibition of EDUs being able to list "non-commodity goods and services" charges on consolidated bills and finds that keeping subsection (C)(9) is appropriate, with revision only to replace "non-

tariffed, non-regulated service" with "non-jurisdictional service." However, the Commission does acknowledge IGS's concern about unreasonable preferences and competitive advantages, considering the current rules have not directly addressed the situation where an EDU consistently enters into a contract only with the EDU's affiliate regarding placement of only that affiliate's non-jurisdictional service charges on the EDU's bill at the exclusion of all potential providers. To promote competition and fairness between all parties, the Commission has adopted amended subsection (A) to include the following sentence at the end of that provision, "An electric utility cannot discriminate or unduly restrict a customer's CRES provider from including non-jurisdictional charges on a consolidated electric bill." The EDU must allow the customer's CRES provider, on an open and nondiscriminatory basis, access to the consolidated bill to list non-jurisdictional service charges.

{¶ 214} With regard to prepaid service rules, AEP Ohio recommends removing the new prepaid service rules in subsection (F) and replacing them with a provision stating that prepaid service rules under Ohio Adm.Code 4901:1-10-22(C) are limited to EDU consolidated rate ready billing (AEP Ohio Comments at 24). RESA/Direct opposes AEP Ohio's addition, though states, if adopted, the rule should clarify that it applies to EDU services and not CRES services because customers on supplier consolidated billing should still be able to receive pre-paid service from the CRES provider (RESA/Direct Reply Comments at 4). IGS also opposes AEP Ohio's recommendation, stating that AEP Ohio offered no rationale for its suggestion, that these limitations are unnecessary and unreasonable at such an early stage in prepaid service development and that harm may result from excluding customers using supplier consolidated bills or bill ready billing on a consolidated bill (IGS Reply Comments at 8-9). OCC opposes AEP Ohio's recommendation for the same reasons mentioned above in the section discussing Ohio Adm.Code 4901:1-10-22 (OCC Reply Comments at 13-14).

{¶ 215} RESA/Direct expanded on its opposition to Staff's proposed rules for prepaid service provided for Ohio Adm.Code 4901:1-10-22(C), stating that the rules under

Ohio Adm.Code 4901:1-10-33(F) do not require much more than what is already required under existing rules and, therefore, are unnecessary.

{¶ 216} As previously stated above, the Commission rejects Staff's proposed rules for prepaid service in its entirety. The Commission notes that it is interested in pursuing prepaid service and recognizes the underlying value this type of service brings to the public and utilities; however, we believe the market needs to further develop before industry-wide rules are adopted. In the alternative, EDUs may file tariff applications for the potential opportunity to offer unbundled, comparable, and non-discriminatory prepaid service. Any order approving such a program will outline the consumer protections to which the EDUs must adhere.

{¶ 217} AEP Ohio recommends revising the language in subsections (A), (B), (G), and (H) to reflect that the EDU or CRES provider might be sending the consolidated bill, and AEP Ohio believes that the same consolidated billing requirements should apply regardless of who is sending the bill (AEP Ohio Comments at 22-25). RESA/Direct and IGS object to AEP Ohio's recommendation, asserting that EDU and CRES requirements should be addressed in separate rules (RESA/Direct Joint Reply Comments at 7; IGS Reply Comments at 11-12). IGS further argues that Staff is already involved in development of two CRES provider bill pilot programs, where Staff must approve the format and content of the bills, so appropriate consumer protections will be in place during the pilot period (IGS Reply Comments at 10-11). In its reply, DP&L states that, while it supports AEP Ohio's intent of adding flexibility to the consolidated billing requirements, it rejects AEP Ohio's amendment because supplier consolidated billing is already addressed in Ohio Adm.Code 4901:1-21-18, and the proposed rules may cause confusion with the requirements of that section (DP&L Reply Comments at 14).

{¶ 218} The Commission declines to adopt AEP Ohio's recommendation since, as the entities opposing AEP Ohio's recommendation point out, rules addressing consolidated bills issued by a CRES provider are delineated in Ohio Adm.Code 4901:1-21-18. The subject



rule section addresses consolidated bills issued by the EDU, so AEP Ohio's changes may result in confusion.

{¶ 219} AEP Ohio also recommends amending subsection (C)(13) so that it is consistent with disconnection rules for residential customers under Ohio Adm.Code 4901:1-18-06(A) and for non-residential customers under Ohio Adm.Code 4901:1-10-17(A) (AEP Ohio Comments at 14-15).

{¶ 220} The Commission rejects AEP Ohio's recommendation because bill delivery to customers outside of the state may take longer than to those inside the state, so the Commission believes that it is appropriate to give those customers who have bills delivered outside of the state more time to pay their bills.

{¶ 221} AEP Ohio suggests revising subsection (C)(15), which addresses customer complaints and who to call regarding them, by deleting it and replacing it with a reference to Ohio Adm.Code 4901:1-18-06(A)(5)(d) so that the provision is consistent with the requirements under Ohio Adm.Code 4901:1-18-06(A)(5)(d) (AEP Ohio Comments at 23).

{¶ 222} The Commission declines to adopt AEP Ohio's suggested revision. The Commission is satisfied with the current language.

{¶ 223} To help reduce consumer confusion, AEP Ohio recommends revising subsection (C)(17) to require a bill to contain additional definitions, specifically for "termination fee, exit fee, fixed rate, variable rate" and to require that the bill provide an explanation for any miscellaneous or other fees contained on the bill (AEP Ohio Comments at 24). IGS opposes this amendment, stating that if this rule is adopted then the Commission should also require descriptions of every rider that is charged to the customer to complete the customers' understanding of electric bill costs (IGS Reply Comments at 13).

{¶ 224} The Commission is satisfied that the current rule accomplishes the goal of promoting transparency to customers of costs which comprise their electric bill; therefore, AEP Ohio's recommendation is rejected.

{¶ 225} AEP Ohio also recommends revising subsection (C)(18) to reflect that the price-to-compare is obtained through the Commission and not the EDU.

{¶ 226} The Commission rejects AEP Ohio's recommendation because, although the Commission provides the price-to-compare on its website, the information used in the price-to-compare charts is provided by the entities themselves.

{¶ 227} To help the Commission answer customer questions about competitive offers, AEP Ohio recommends revising subsection (E)(2) to require bills to itemize all CRES charges and to summarize the charges in one price per kWh presentation to be readily comparable to the price-to-compare with only fees associated with a separate product or service excluded (AEP Ohio Comments at 15). IGS argues that readily comparing these charges to the price-to-compare chart would be misleading to customers because the price-to-compare does not include any of the charges AEP Ohio suggests including (e.g. fixed charges, administrative fees, service fees, etc.). IGS also states that displaying anything other than the agreed-upon contract price would be inappropriate, misleading, in violation of Ohio law, and make it more difficult for the Commission to answer questions about competitive offers because of the mismatch between the contract price and AEP Ohio's suggested formula. (IGS Reply Comments at 11-12). RESA/Direct argues that CRES charges are misplaced in this section and should be addressed in Ohio Adm.Code 4901:1-21-12. RESA/Direct also states that not all CRES suppliers charge a volumetric rate for all products and services, so "one price per kWh" is not realistic. (RESA/Direct Joint Reply Comments at 5, 7.)

{¶ 228} The Commission agrees with RESA/Direct regarding its concern about requiring one price per kWh since not all CRES suppliers charge a volumetric rate for all products and services. Therefore, AEP Ohio's recommendation is rejected.

{¶ 229} AEP Ohio also recommends revising subsection (E)(5) to replace "[a] highlighted notice of" with "[t]he non-billing party shall provide a bill message explaining" to reduce confusion for customers (AEP Ohio Comments at 23-24).

{¶ 230} The Commission does not agree with AEP Ohio's suggestion. First, this section applies to consolidated bills issued only by the EDU, so the requested edit is unnecessary. Second, the current language, requiring the language to be highlighted, is required by R.C. 4928.10(C)(5).

{¶ 231} AEP Ohio also recommends revising subsections (G) and (H) to account for the fact that the EDU or CRES provider might be sending the consolidated bill (AEP Ohio Comments at 25-26). DP&L supports AEP Ohio's intent of adding flexibility to consolidated billing requirements; however, DP&L opposes AEP Ohio's specific recommendations since supplier consolidated billing is already addressed in Ohio Adm.Code 4901:1-21-18, and the proposed changes may cause confusion/conflict with requirements under that section. (DP&L Reply Comments at 14.)

{¶ 232} The Commission agrees with DP&L's opposing comments regarding AEP Ohio's suggestions. As DP&L notes, supplier consolidated billing is addressed in Ohio Adm.Code 4901:1-21-18; therefore, the Commission declines to adopt AEP Ohio's suggestions, as they may lead to confusion/conflict.

{¶ 233} AEP Ohio also recommends amending subsections (I)(1) and (I)(2) regarding partial payment posting priorities. AEP Ohio suggests changes listing priority for EDU and CRES provider charges shown on a disconnection notice. AEP Ohio also recommends revising subsection (I)(2) to provide clearer language regarding partial payments in relation to bona fide disputes. (AEP Ohio Comments at 25-26.)

{¶ 234} The Commission rejects AEP Ohio's suggested revisions for subsections (I)(1) and (I)(2). Specifically, the Commission finds the suggestions under (I)(1) as unnecessary since the rules already contemplate posting priorities for past due CRES and EDU charges, which also happen be on the disconnection notice. Also, the Commission is satisfied with the current language under (I)(2).

{¶ 235} AEP Ohio also suggests revising subsection (K)(6) for purposes of clarity and simplification by removing the phrase "treated as a payment made at the electric utility's

business office and shall be” from the first sentence of the provision (AEP Ohio Comments at 27).

{¶ 236} The Commission accepts AEP Ohio’s edit, and the first sentence of subsection (K)(6) now reads, “Any payment made online shall be posted to the customer’s account in accordance with paragraph (E) of rule 4901:1-10-22 of the Administrative Code.” The remainder of this provision has not changed.

{¶ 237} IGS first notes that it is unclear why subsection (C)(9), allowing for charges for non-tariffed and/or non-regulated services or products to appear on the consolidated bill, remains in the rule if subsection (K) prohibits such charges on the bill (IGS Comments at 3-5).

{¶ 238} As the Commission noted above, keeping (C)(9) in the rule was an oversight; however, as also stated above, the Commission is declining to adopt Staff’s proposed rules.

{¶ 239} IGS recommends adding a statement to the bill that reflects Ohio Adm.Code 4901:1-10-24(D)(1)’s requirement that an EDU may not inform a customer that distribution service will or may be disconnected unless the customer pays any amount due for a non-tariffed or non-regulated service. IGS further recommends revising subsection (D)(1)’s requirement so that “non-tariffed or non-regulated service” is replaced with “nonelectric product or service.” (IGS Comments at 5.) AEP Ohio supports IGS recommendation and believes that this change is necessary to clarify that failure to pay a non-commodity good or service should not subject the account to disconnection (AEP Ohio Reply Comments at 11).

{¶ 240} The Commission rejects IGS’s recommendations, As stated earlier, while the Commission promotes bill transparency, we also recognize that the partial payment posting priorities in Ohio Adm.Code 4901:1-10-22(G) and 4901:1-10-33(H) currently provide underlying protections for customers who only make partial payments, meaning payments would be applied to charges that could lead to disconnection before being applied to certain nonregulated charges, and the bill already contains contact information for the utility and the Commission in case a customer has a question regarding these charges.

{¶ 241} IGS also recommends revising subsection (L) to require that the consolidated bill format must include charges for non-commodity goods or services from an electric services company. IGS believes this change will provide CRES providers certainty regarding their ability to use the consolidated bill for its non-commodity goods and services. Also, IGS argues that this amendment will remove the ultimate decision from the EDUs of what can be placed on the EDU bill. (IGS Comments at 4-5.) DP&L opposes IGS's recommendation, referring to its earlier argument that the proposed amendments would interfere with part of the Stipulation and Recommendation approved by the Commission in its third ESP case whereby the Commission ordered DP&L to file an application establishing non-commodity billing and its parameters. *See In re the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, et al. (*DP&L SSO and ESP*), Opinion and Order (Oct. 20, 2017) (DP&L Comments at 9; DP&L Reply Comments at 14).

{¶ 242} As previously discussed, the Commission declines to adopt Staff's proposed outright prohibition of EDUs being able to list "non-commodity goods and services" charges on consolidated bills and finds that keeping subsection (C)(9) is appropriate, though, to promote competition and fairness between all parties, the Commission has adopted amended subsection (A) to include the following sentence at the end of that provision, "An electric utility cannot discriminate or unduly restrict a customer's CRES provider from including non-jurisdictional charges on a consolidated electric bill." The EDU must allow the customer's CRES provider, on an open and nondiscriminatory basis, access to the consolidated bill to list the newly termed, "non-jurisdictional services" charges. While this provision does not force the EDU to place the customer's CRES provider's non-jurisdictional service on the consolidated bill, the Commission believes its amendment strikes a middle ground whereby fairness to the CRES provider is accounted for as is the EDU's freedom to contract is respected.

{¶ 243} As mentioned above under the section discussing Ohio Adm.Code 4901:1-10-22, DP&L raises concerns regarding consolidated billing for utility services provided by

a third-party, specifically Arcadia Power. DP&L recommends amending the consolidated billing rules to ensure utilities are not held responsible for the actions of a third party over which it has no control. DP&L notes that, although it has not received complaints about Arcadia Power, it has a general concern for customers serviced by a third party which is neither a party to a billing services agreement with the utility nor subject to the consolidated billing requirements in Ohio Adm.Code 4901:1-10-33 or 4901:1-21-18. DP&L worries that these customers may not be afforded the same protections as other customers who receive a consolidated bill from their utility or CRES provider. (DP&L Comments at 10-11.) AEP Ohio supports DP&L's amendment and believes that an EDU should not be responsible for a third party's actions when a customer provides that third party access to the customer's data (AEP Ohio Reply Comments at 9). IGS opposes DP&L's proposal, stating that no evidence exists showing Arcadia Power's business model violates Commission's rules, plus the proposal would interfere with consumer preferences for the manner in which they are invoiced and pay for retail electric service. IGS also notes that these entities are not required to abide by the same consumer protections as the EDUs and CRES providers, as no evidence suggests they are engaging in activities as power brokers or marketers, as defined in Ohio Adm.Code 4901:1-21-01(DD) and (FF). Finally, IGS asserts that, if the Commission wishes to explore whether it has jurisdiction over these entities, the Commission should do so in a separate docket. (IGS Reply Comments at 4-5.)

{¶ 244} The Commission notes that the intent of this rule is to ensure that an EDU that allows customers to access their bills on its website must develop a secure registration process that allows a customer to view the bill while also guarding against unauthorized account access. The Commission believes that the utility should have the wherewithal to track when an account was accessed without customer permission and make the changes needed to secure the site. The Commission understands that the utility cannot control every situation, such as when a customer provides someone else with the customer's password for bill access; however, the rule is not intended to address authorized third-party access to customer bills. At this time, the Commission declines to adopt DP&L's suggestion.

W. *Ohio Adm.Code 4901:1-10-35 – Disclosures of Renewable Energy Resource, Energy Efficiency, and Peak Demand Reduction Compliance Costs*

{¶ 245} AEP Ohio believes this section mirrors R.C. 4928.65, though AEP Ohio recommends modifying this language to reflect that a bill might be sent from an EDU or a CRES provider, and any bills sent by a CRES provider should include costs associated with its own compliance with renewable targets found in R.C. 4928.64 (AEP Ohio Comments at 27).

{¶ 246} The Commission notes that AEP Ohio did not offer a specific revision or posit a specific addition to the rule; therefore, the Commission rejects AEP Ohio's proposal.

#### IV. CONCLUSION

{¶ 247} In making its rules, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules. The Commission has evaluated Ohio Adm.Code 4901:1-10 and recommends amending the rules as demonstrated in the attachment to this Order.

{¶ 248} An agency must also demonstrate that it has included stakeholders in the development of the rule, that it has evaluated the impact of the rule on businesses, and that the purpose of the rule is important enough to justify the impact. The agency must seek to eliminate excessive or duplicative rules that stand in the way of job creation. Moreover, the agency must remove two or more existing regulatory restrictions for every new regulatory restriction added. The Commission has included stakeholders in the development of these rules, has sought to eliminate excessive or duplicative rules that stand in the way of job creation, and has adhered to the requirement regarding the removal of regulatory restrictions.

{¶ 249} Accordingly, at this time, the Commission finds that amendments to Ohio Adm.Code 4901:1-10-01, -04, -05, -06, -07, -09, -12, -14, -15, -17, -18, -19, -20, -21, -22, -24, -25, -26, -27, -28, -29, -32, -33, and -34 should be filed with the Joint Committee on Agency Rule

Review (JCARR), the Secretary of State, and the Legislative Service Commission (LSC). We also recognize that, when the Commission files this rule chapter, the existing Ohio Adm.Code 4901:1-10-07 will be rescinded and the rule as proposed in the attachment will be filed as a new rule in order to comply with JCARR and LSC requirements. In order to avoid needless production of paper copies, the Commission will serve a paper copy of this Order only and will make the rule, as well as the business impact analysis, available online at the Commission's website: [www.puco.ohio.gov/puco/rules](http://www.puco.ohio.gov/puco/rules). All interested persons may download the rule and the business impact analysis from the above website, or contact the Commission's Docketing Division to be sent a paper copy.

## V. ORDER

{¶ 250} It is therefore,

{¶ 251} ORDERED, That amended Ohio Adm.Code 4901:1-10-01, -04, -05, -06, -07, -09, -12, -14, -15, -17, -18, -19, -20, -21, -22, -24, -25, -26, -27, -28, -29, -32, -33, and -34 be adopted. It is, further,

{¶ 252} ORDERED, That the existing Ohio Adm.Code 4901:1-10-07 be rescinded consistent with JCARR and LSC requirements. It is, further,

{¶ 253} ORDERED, That the new version of Ohio Adm.Code 4901:1-10-07 be adopted. It is, further,

{¶ 254} ORDERED, That the new and amended rules be filed with JCARR, the Secretary of State, and LSC, in accordance with Divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 255} ORDERED, That the final rules be effective on the earliest date permitted. Unless otherwise ordered by the Board, the five-year review date for Ohio Adm. Code Chapter 4901:1-10 shall be in compliance with R.C. 119.032. It is, further,



{¶ 256} ORDERED, That a copy of this Finding and Order be served upon all commenters and all interested persons of record in this matter.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJS/mef/kck

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## **AMENDED**

### **4901:1-10-01 Definitions.**

As used in this chapter:

- (A) "Advanced meter" means any electric meter that meets the pertinent engineering standards using digital technology and is capable of providing two-way communications with the electric utility to provide usage and/or other technical data.
- (B) "Advanced meter opt-out service" means a service provided by an electric utility under the terms and conditions of a commission-approved tariff, which allows a customer to take electric distribution service using a traditional meter.
- (C) "Applicant" means a person who requests or makes application for service.
- (D) "Commission" means the public utilities commission of Ohio.
- (E) "Competitive retail electric service provider" or "CRES" means a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.
- (F) "Consolidated billing" means that a customer receives a single bill for electric services provided during a billing period for services from both an electric utility and a competitive retail electric service provider.
- (G) "Consumer" means any person who receives service from an electric utility or a competitive retail electric service provider.
- (H) "Critical customer" means any customer or consumer on a medical or life-support system who has provided appropriate documentation to the electric utility that an interruption of service would be immediately life-threatening.
- (I) "Customer" means any person who has an agreement, by contract and/or tariff with an electric utility or by contract with a competitive retail electric service provider, to receive service.
- (J) "Customer energy usage data" means data collected from a customer's meter, which is identifiable to a retail customer.
- (K) "Customer premises" means the residence(s), building(s), or office(s) of a customer.

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- (L) "Director of the service monitoring and enforcement department" means the director of the service monitoring and enforcement department of the commission or the director's designee.
- (M) "Electric distribution utility" or "EDU" shall have the meaning set forth in division (A)(6) of section 4928.01 of the Revised Code.
- (N) "Electric light company" shall have the meaning set forth in division (A)(4) of section 4905.03 of the Revised Code.
- (O) "Electric services company" shall have the meaning set forth in division (A)(9) of section 4928.01 of the Revised Code.
- (P) "Electric utility" as used in this chapter shall have the meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- (Q) "Electric utility call center" means an office or department or any third party contractor of an electric utility designated to receive customer calls.
- (R) "Fraudulent act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the electric utility relies on to its detriment. Fraudulent act does not include tampering.
- (S) "Governmental aggregation program" means the aggregation program established by the governmental aggregator with a fixed aggregation term, which shall be a period of not less than one year and no more than three years.
- (T) "Major event" encompasses any calendar day when an electric utility's system average interruption duration index (SAIDI) exceeds the major event day threshold using the methodology outlined in section 3.5 of standard 1366-2012 adopted by the institute of electrical and electronics engineers (IEEE) in "IEEE Guide for Electric Power Distribution Reliability Indices." The threshold will be calculated by determining the SAIDI associated with adding 2.5 standard deviations to the average of the natural logarithms of the electric utility's daily SAIDI performance during the most recent five-year period. ~~The computation for a major event requires the exclusion of transmission outages.~~ For purposes of this definition, the SAIDI shall be determined in accordance with paragraph (C)(3)(e)(iii) of rule 4901:1-10-11 of the Administrative Code.
- (U) "Mercantile customer" shall have the meaning set forth in division (A)(19) of section 4928.01 of the Revised Code.
- (V) "Momentary interruption" means an interruption of electric service with a duration of five minutes or less.

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(W) "Non-jurisdictional services" means services which do not meet the definition of "retail electric service" set forth in division (A)(27) of section 4928.01 of the Revised Code.

~~(WX)~~ "Outage coordinator" means the commission's service monitoring and enforcement department director or the director's designee.

~~(XY)~~ "Person" shall have the meaning set forth in division (A)(24) of section 4928.01 of the Revised Code.

~~(YZ)~~ "Postmark" means a mark, including a date, stamped or imprinted on a piece of mail which services to record the date of its mailing, which in no event shall be earlier than the date on which the item is actually deposited in the mail. For electronic mail, postmark means the date the electronic mail was transmitted.

~~(ZAA)~~ "Renewable energy credit" means the fully aggregated attributes associated with one megawatt hour of electricity generated by a renewable energy resource as defined in division (A)(35) of section 4928.01 of the Revised Code.

~~(AABB)~~ "Slamming" means the transfer of or requesting the transfer of a customer's competitive electric service to another provider without obtaining the customer's consent.

~~(BBCC)~~ "Staff" means the commission staff or its authorized representative.

~~(CCDD)~~ "Sustained outage" means the interruption of service to a customer for more than five minutes.

~~(DEEE)~~ "Tampering" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so far as to reduce the amount of utility service that is registered on or reported by the meter. Tampering includes the unauthorized reconnection of a utility meter, conduit, or attachment that has been disconnected by the utility.

~~(EEFF)~~ "Time differentiated rates" means rates that vary from one time period to another, such as hourly, daily, or seasonally.

~~(FFGG)~~ "Traditional meter" means any meter with an analog or digital display that does not have the capability to communicate with the utility using two-way communications.

~~(GGHH)~~ "Transmission outage" means an outage involving facilities that would be included in rate setting by the federal energy regulation commission.

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- (~~HHI~~) "Universal service fund" means a fund established pursuant to section 4928.51 of the Revised Code, for the purpose of providing funding for low-income customer assistance programs, including the percentage of income payment plan program, customer education, and associated administrative costs.
- (~~HJJ~~) "Voltage excursions" are those voltage conditions that occur outside of the voltage limits as defined in the electric utility's tariffs and are beyond the control of the electric utility.

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## **NO CHANGE**

### **4901:1-10-02 Purpose and scope.**

- (A) The rules in this chapter:
  - (1) Apply to investor-owned electric utilities, as defined in this chapter, and transmission owners.
  - (2) Are intended to promote safe and reliable service to consumers and the public, and to provide minimum standards for uniform and reasonable practices.
- (B) The commission may, in addition to the rules in this chapter, require electric utilities and/or transmission owners to furnish other or additional service, equipment, and facilities upon:
  - (1) The commission's own motion.
  - (2) Formal or informal commission resolution of a complaint.
  - (3) The application of any electric utility.
- (C) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.
- (D) The rules in this chapter shall not relieve the electric utilities and/or transmission owners from:
  - (1) Providing adequate service and facilities as prescribed by the commission.
  - (2) Complying with the laws of this state.
- (E) Except as set forth below, the rules of this chapter supersede any inconsistent provisions, terms, and conditions of the electric utility's tariffs. An electric utility may adopt or maintain tariffs providing superior standards of service, reliability or safety, or greater protection for customers or consumers. Further, an electric utility may adopt or maintain tariffs which are not inconsistent with the rules of this chapter.
- (F) When an electric utility and/or transmission owner in a complaint proceeding under section 4905.26 of the Revised Code demonstrates compliance with the relevant service or performance standard of this chapter, excluding rule 4901:1-10-27 of the Administrative Code, a rebuttable presumption is created that the electric utility is providing adequate service regarding that standard. Such presumption applies solely to the specific standard addressed by the commission

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for the time period at issue in the complaint proceeding. No such presumption is created merely by compliance with any reporting requirement of this chapter. In addition, to the extent the service and performance standards in this chapter are based on system-wide data, no such rebuttable presumption is applicable to complaints regarding the adequacy of service provided either to individual customers or consumers or to any segment of the system of an electric utility and/or transmission owner.

- (G) No tariff of an electric utility shall incorporate exculpatory clauses that purport to limit or eliminate liability on the part of the electric utility to its customers or others as a result of its own negligence when providing a regulated service. No electric utility tariff shall incorporate provisions which purport to establish liability on the part of the electric utility's customers for acts or failures to act involving an electric utility's facilities, which are beyond the control of the customer. Any contrary provisions in an electric utility's tariff now on file with the commission shall be eliminated.

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## **NO CHANGE**

### **4901:1-10-03      Records.**

#### **(A) Retention of records**

- (1) Unless otherwise specified in this chapter or in paragraph (A)(2) of this rule, the regulations governing the retention and preservation of electric utility records are set forth in the appendix to rule 4901:1-9-06 of the Administrative Code.
- (2) Unless otherwise specified in this chapter, each electric utility shall maintain, for three years, records that are sufficient to demonstrate compliance with the rules of this chapter. Failure to retain records, as required by this rule, sufficient to demonstrate compliance with the rules of this chapter shall give rise to a rebuttable presumption to the contrary.
- (3) If compliance with any rule in this chapter is determined on the basis of activities (such as inspection, testing, or maintenance) occurring over a period of two years or more, then the three-year record retention requirement shall be increased by the total number of years over which such activities are required to occur and shall apply to the compilation of records comprised of the activities required during the stated period.

#### **(B) Access to records**

- (1) Each electric utility shall provide access to its records maintained in accordance with paragraph (A) of this rule to the staff upon request of the staff.
- (2) Access to records and business activities includes such records and activities as would allow the staff to adequately monitor Ohio-specific customer calls made to the electric utility call center or a third party vendor hired by the electric utility.
- (3) Access includes the ability of staff to adequately monitor the electric utility call center interactions with Ohio customers either at a location in Ohio or in a manner agreed to by the staff. Electric utilities shall provide access to monitor customer calls without the customer service representative's knowledge of the monitoring.



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## **AMENDED**

### **4901:1-10-04      Equipment for voltage measurements and system voltage and frequency requirements.**

- (A) Portable indicating instruments (e.g., electro-mechanical indicating, electronic indicating, and electronic indicating and recording) used to test or record service voltage at the customer's premises in response to a customer inquiry or complaint shall be checked for accuracy against a recognized standard. For transmission facilities within the commission's jurisdiction, the voltage measuring equipment accuracy and testing requirements shall comply with the requirements of the transmission system operator. Accuracy checks shall be conducted as recommended by the manufacturer or once per calendar year if no period is specified. The most recent accuracy test record shall be kept with each such instrument, or at a central location for the electric utility and/or transmission owner.
- (B) Electric utilities and transmission owners shall comply with the following requirements regarding standard voltage:
  - (1) Each electric utility and transmission owner supplying electrical energy for general use shall adopt nominal service voltages to be supplied to its customers and shall make every reasonable effort, by the use of proper equipment and operation, to maintain the service voltages to its customers within the limits as defined within this rule.
  - (2) Each electric utility shall file with the commission, as part of its tariffs, the nominal service voltage available to customers, including the number of phases and service configurations and the voltage variations for each available service configuration. The nominal service voltage shall be based on the 2014-2016 edition of the "American National Standards Institute" standard C84.1, electric power systems and equipment voltage ratings, or as subsequently amended.
  - (3) The limits specified within this rule do not apply to voltage excursions.
  - (4) Each electric utility and transmission owner shall develop procedures to reasonably ensure that the delivered service voltages are within the ranges as specified in paragraph (B)(2) of this rule.

The procedures shall include a description of the electric utility's and transmission owner's practices to assure that service voltages are within acceptable limits and may include the inspections of substation voltage regulation equipment, line voltage regulation equipment

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(i.e., voltage regulators and capacitors), available substation voltage monitoring equipment and other field investigations and system voltage studies.

- (C) Whenever an electric utility and/or transmission owner knows that voltage levels exist outside of the voltage ranges as specified in paragraph (B)(2) of this rule, the electric utility shall, in a nondiscriminatory manner, promptly take steps to investigate and initiate corrective action, if it is within the electric utility's and/or transmission owner's control to restore the voltage levels to within acceptable limits. The electric utility and/or transmission owner shall document the specifics of the investigation, its findings, and any corrective action that was necessary.
- (D) The voltage requirements outlined in this rule may be amended or modified by contractual agreement between the electric utility and/or transmission owner and its customer(s), provided the service rendered does not impact other customers on the system.
- (E) The electric utility is not responsible for installing regulating apparatus for special equipment requiring voltage regulation other than those prescribed by these rules or as defined in the electric utility's tariffs.

Each electric utility supplying alternating current shall adopt a standard frequency of sixty hertz, which standard frequency shall be stated in the electric utility's tariff.

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**AMENDED**

**4901:1-10-05      Metering.**

- (A) Electric energy delivered to the customer shall be metered, except where it is impractical to meter the electric usage, such as in street lighting and temporary or special installations. The usage in such exceptions may be calculated or billed on a demand or connected load rate as provided in an approved tariff on file with the commission.
- (B) A customer's electric usage shall be metered by commercially acceptable measuring devices that comply with "American National Standards Institute" (ANSI) standards. Meter accuracy shall comply with the 20082014 version of ANSI C12.1 standards. No metering device shall be placed in service or knowingly allowed to remain in service if it does not comply with these standards.
- (C) Electric utility employees or authorized agents of the electric utility shall have the right of access to the electric utility's metering equipment for the purpose of reading, replacing, repairing, or testing the meter, or determining that the installation of the metering equipment is in compliance with the electric utility's requirements, or other such purposes necessary to permit the electric utility to carry out its authorized functions.
- (D) Meters that are not direct reading meters, such as meters with a multiplier not equal to 1.0, shall have the multiplier plainly marked on or adjacent to the meter. All charts taken from recording meters shall be marked with the date of the record, the meter number, the customer name, and the chart multiplier. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter shall be placed on all watt-hour meters.
- (E) The electric utility's meters shall be installed and removed by the electric utility's personnel or authorized agent. Before initial service to a service location is energized, the electric utility shall verify that the installation of the meter base and associated equipment has ~~either~~ been both inspected and approved by the local inspection authority or, in any area where there is no local inspection authority, has been inspected by a licensed electrician.
- (F) Metering accuracy shall be the responsibility of the electric utility.
  - (1) Upon request by a customer, the electric utility shall test its meter to verify its compliance with the ANSI C12.1 standards within thirty business days after the date of the request.
  - (2) The customer or the customer's representative may be present when the meter test is performed at the customer's request.

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(3) A written explanation of the test results shall be provided to the customer within ten business days of the completed test.

(4) If the accuracy of the meter is found to be within the tolerances specified in this rule:

(a) The first test at the customer's request shall be free of charge.

(b) The electric utility may charge the customer an approved tariffed fee for each succeeding test conducted less than thirty-six months after the last test requested by the customer on the same meter. Each electric utility shall notify the customer of such charge prior to the test.

(5) If the accuracy of the meter is found to be outside the tolerances specified in this rule, the electric utility:

(a) Shall not charge a fee or recover any testing expenses from the customer.

(b) Shall recalibrate the meter or provide a properly functioning meter that complies with the ANSI C12.1 standards without charge to the customer.

(c) Shall, within thirty days, pay or credit any overpayment to the customer, in accordance with one of the following billing adjustments:

(i) When the electric utility or customer has established the period of meter inaccuracy, the overcharge shall be computed on the basis of metered usage prior and/or subsequent to such period, consistent with the rates in effect during that period.

(ii) When the electric utility and customer cannot establish the period of meter inaccuracy, the overcharge period shall be determined to be: the period since the customer's "on" date or the period since the date of most recent meter test performed, whichever is shorter. The applicable rates shall be those in effect during the period of inaccuracy in order to determine the appropriate credit or refund.

Paragraph (F)(5) of this rule shall not apply to meter or metering inaccuracies caused by tampering with or unauthorized reconnection of the meter or metering equipment.

(d) Any undercharge shall be billed in accordance with rule 4901:1-10-23 of the Administrative Code.

(G) Each electric utility shall identify, by company name and/or parent trademark name and serial or assigned meter numbers and/or letters, placed in a conspicuous position on the meter, each customer meter that it owns, operates, or maintains.

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- (H) Each electric utility shall maintain the following records regarding each meter that it owns, operates, or maintains, for the life of each such meter plus three years:
- (1) Serial or assigned meter number.
  - (2) Every location where the meter has been installed and removed, together with the dates of such installations and removals.
  - (3) Date of any customer request for a test of the meter.
  - (4) Date and reason for any test of the meter.
  - (5) Result of any test of the meter.
  - (6) Meter readings before and after each test of the meter.
  - (7) Accuracy of the meter found during each test, "as found" and "as left".
- (I) Each electric utility shall comply with the following requirements regarding meter reading:
- (1) The electric utility shall obtain actual readings of all its in-service customer meters at least ~~quarterly~~<sup>once</sup> each calendar year. Every billing period, the electric utility shall make reasonable attempts to obtain accurate, actual readings of the energy and demand, if applicable, delivered for the billing period, except where the customer and the electric utility have agreed to other arrangements. Meter readings taken by electronic means shall be considered actual readings.
  - (2) In addition to the requirements of paragraph (I)(1) of this rule, the electric utility shall provide, upon the customer's request, two actual meter readings, without charge, per calendar year. The customer may only request an actual meter read if usage has been estimated for more than two of the immediately preceding billing cycles consecutively or if the customer has reasonable grounds to believe that the meter is malfunctioning.
  - (3) An actual meter reading is required at the initiation and/or the termination of service, if the meter has not been read within the sixty calendar days immediately preceding initiation and/or termination of service and access to the meter is provided.
  - (4) If the meter has most recently been read within the thirty-three to fifty-nine calendar days immediately preceding the initiation and/or termination of service, the electric utility shall inform the customer, when the customer contacts the electric utility, of the option to have an actual meter read at no charge to the customer.

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- (5) If the meter has been read within the thirty-two calendar days immediately preceding the initiation and/or termination of service, the electric utility may estimate usage.

(J) Advanced meter opt-out service

- (1) An electric utility shall provide customers with the option to remove an installed advanced meter and replace it with a traditional meter, ~~and or in the event that an advanced meter has not been installed~~, the option to decline installation of an advanced meter and retain a traditional meter, including a cost-based, tariffed opt-out service.
- (2) Prior to installation of an advanced meter, the utility shall give notice to the customer at least one business day in advance.
- (3) The electric utility shall notify the customer of the following if a customer expresses interest in using a traditional meter:
- (a) The customer will be required to pay the amount of the approved tariff charge.
  - (b) The electric utility shall explain the facts concerning advanced meters and attempt to address any customer concerns prior to signing up a customer for advanced meter opt-out service. To the extent that the electric utility offers multiple options for the customer to obtain or retain either an advanced meter or a traditional meter, the utility shall explain each option and the associated costs and give the customer choice over the option selection.
  - (c) If the customer is currently enrolled in a product or service requiring an advanced meter as a condition of enrollment with the electric utility, the electric utility shall notify the customer that a different product or service must be chosen prior to installation of the traditional meter.
- (4) The electric utility shall have the right to refuse to provide advanced meter opt-out service in either of the following circumstances:
- (a) If such a service creates a safety hazard to consumers or their premises, the public, or the electric utility's personnel or facilities.
  - (b) If a customer does not allow the electric utility's employees or agents access to the meter at the customer's premises.

(5) Tariffs

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~~(a) The electric utility shall file a proposed tariff for opt-out service within thirty calendar days of the effective date of this rule.~~

(ba) Each electric utility shall have on file with the commission an approved tariff offering residential customers the option to remove an installed advanced meter and replace it with a traditional meter, and the option to decline the installation of an advanced meter and retain a traditional meter. Such tariff shall comply with the following requirements:

(i) In the event special tariff provisions are required due to circumstances not addressed in this rule, the electric utility shall address those circumstances in its tariff application, but shall make its best efforts to maintain consistency with the rules herein.

(ii) The tariff shall not be available to any customer taking generation service under a time differentiated rate. An electric utility may establish certain fees for electing not to use an advanced meter. Such fees shall be calculated based upon the costs incurred to provide advanced meter opt-out service as allowed by this rule.

(eb) An electric utility may establish a one-time fee to recover the costs of removing an existing advanced meter, and the subsequent installation of a traditional meter.

(dc) An electric utility may establish a recurring fee to recover costs associated with providing meter reading and billing services associated with the use of a traditional meter.

(ed) Costs incurred by an electric utility to provide advanced meter opt-out service shall be borne only by customers who elect to receive advanced meter opt-out service.

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## **AMENDED**

**4901:1-10-06      "National Electrical Safety Code".**

Each electric utility and transmission owner shall comply with the ~~2012~~2017 edition of the "American National Standard Institute's," "National Electrical Safety Code" approved by the "American National Standards Institute" and adopted by the "Institute of Electric and Electronics Engineers."



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## **RESCINDED**

### **4901:1-10-07      Outage and Accident reports.**

(A) As used in this rule, "outage" means an interruption of service to:

- ~~\_(1) Two thousand five hundred or more customers in an area for a projected or actual period of four hours or more.~~
- ~~\_(2) One hundred or more customers in an area for a projected or actual period of twenty-four hours or more.~~
- (1) One thousand, two hundred and fifty customers in an area for a projected or actual period of two hours or more.
- (2) Six hundred and twenty-five customers in an area for a projected or actual period of eight hours or more.
- (3) One hundred or more customers in an area for a projected or actual period of twenty-four hours or more.
- (4) Any time a circuit experiences a lockout, regardless of customer count or outage time.
- (35) A facility of any telephone company, electric light company, natural gas company, water-works company, or a sewage disposal system company, as defined in section 4905.03 of the Revised Code and including a company that is operated not-for-profit, or owned or operated by a municipal corporation, when an interruption to that facility for a projected period of four hours or more, affects or will affect public safety.
- (46) Any police department, fire department, hospital, or countywide 9-1-1 system, for a projected period of four hours or more.

As used in this paragraph, "area" means the electric utility's certified territory within a county or all adjoining municipalities and townships in an electric utility's certified territory.

(B) Each electric utility shall immediately report each outage to the commission's outage coordinator in a format prescribed by the outage coordinator.

(C) Each electric utility shall immediately notify the director of the service monitoring and enforcement department, or his or her designee, of any accidents within thirty minutes after

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discovery unless notification within that time is impracticable under the circumstances. As used in this rule, an “accident” is any event involving contact with energized utility electric lines or facilities which results in a death or an injury requiring hospitalization.

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**NEW**

**4901:1-10-07      Outage and Accident reports.**

(A) As used in this rule, "outage" means an interruption of service to:

- (1) One thousand, two hundred and fifty customers in an area for a projected or actual period of two hours or more.
- (2) Six hundred and twenty-five customers in an area for a projected or actual period of eight hours or more.
- (3) One hundred or more customers in an area for a projected or actual period of twenty-four hours or more.
- (4) Any time a circuit experiences a lockout, regardless of customer count or outage time.
- (5) A facility of any telephone company, electric light company, natural gas company, water-works company, or a sewage disposal system company, as defined in section 4905.03 of the Revised Code and including a company that is operated not-for-profit, or owned or operated by a municipal corporation, when an interruption to that facility for a projected period of four hours or more, affects or will affect public safety.
- (6) Any police department, fire department, hospital, or countywide 9-1-1 system, for a projected period of four hours or more.

As used in this paragraph, "area" means the electric utility's certified territory within a county or all adjoining municipalities and townships in an electric utility's certified territory.

(B) Each electric utility shall immediately report each outage to the commission's outage coordinator in a format prescribed by the outage coordinator.

(C) Each electric utility shall immediately notify the director of the service monitoring and enforcement department, or his or her designee, of any accidents within thirty minutes after discovery unless notification within that time is impracticable under the circumstances. As used in this rule, an "accident" is any event involving contact with energized utility electric lines or facilities which results in a death or an injury requiring hospitalization.

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## **NO CHANGE**

### **4901:1-10-08 Electric utility emergency plans and coordination for restoration of electric service.**

- (A) Each electric utility shall maintain an emergency plan(s) in accordance with this rule. Each emergency plan shall include at least the following elements, or if these elements are contained in another document, each electric utility shall reference such document in the plan:
- (1) A table of contents, mission statement, and major objectives for the plan.
  - (2) A description of procedures the electric utility uses to move from its normal operations to each stage or level of outage response and restoration of services.
  - (3) A description of the electric utility's requirements for restoring service. In the event of an interruption of electric service during a period of emergency or disaster, an electric utility's service restoration plan shall give priority to hospitals that are customers of the electric utility.
  - (4) Identification and annual updates of all of the electric utility's critical facilities, as defined by the electric utility, and reasonable measures to protect its personnel and facilities.
  - (5) Contingency identification, i.e., a plan for training alternative or backup employees, identifying backup power supplies, and identifying alternative means of communicating with the office and field employees.
  - (6) A list of twenty-four hour phone numbers of fire and police departments and county/regional emergency management directors in its service area.
  - (7) Procedures for requesting aid, utilizing crews from other electric transmission owners and/or distribution utilities, and utilizing other restoration assistance.
  - (8) Procedures for prompt identification of outage areas; timely assessment of damage; and, as accurately as conditions allow, provision of an informed estimate of materials, equipment, personnel, and hours required to restore service.
  - (9) Performance objectives for telephone response time to customer outage calls and procedures to accomplish those objectives.

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- (10) The policy and procedures for outage response and restoration of service by priority and a list of such priorities, including the following:
  - (a) "Live wire down" situations.
  - (b) Restoring service to the facilities designated in paragraph (A)(3) of rule 4901:1-10-07 of the Administrative Code, and the entities specified in paragraph (A)(4) of rule 4901:1-10-07 of the Administrative Code.
  - (c) Providing information to critical customers who are without service.
- (11) The policy and procedures for providing outage response and restoration of service updates to the county/regional emergency management directors, mayors, and other elected officials; the commission's outage coordinator; the commission's media office; the media; and the electric utility's customers.
- (12) The policy and procedures to verify that service has been restored in each outage area.
- (13) The policy and procedures for providing maximum outage response, seeking outside assistance, and restoring service in a worst case outage scenario, i.e., "a major event."
- (14) The policy and procedures to provide supervisors who are responsible for emergency response a copy of the latest edition of the emergency plan.
- (15) The policy and procedures to:
  - (a) Establish and maintain a liaison with appropriate fire and police departments within the electric utility's service territory.
  - (b) Identify major interruptions of service during which the electric utility will notify appropriate fire departments, police departments, and public officials regarding such interruptions.
  - (c) Determine appropriate mutual assistance and communication methodologies that will be used during major restoration efforts.
- (16) In addition to any North American electric reliability corporation guidelines or standards, a continuity of operations plan to ensure continuance of minimum essential functions during events that cause staffing to be reduced. The continuity of operations plan shall, at a minimum, include:

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- (a) Plan activation triggers such as the world health organization's pandemic phase alert levels, widespread transmission within the United States, or a case at one or more locations within the state of Ohio.
  - (b) Identification of a pandemic coordinator and team with defined roles and responsibilities for preparedness and response planning.
  - (c) Identification of minimal essential functions, minimal staffing required to maintain such essential functions, and personnel resource pools required to ensure continuance of those functions in progressive stages associated with a declining workforce.
  - (d) Identification of essential employees and critical inputs (e.g., raw materials, equipment, suppliers, subcontractor services/products, and logistics) required to maintain business operations by location and function.
  - (e) Policies and procedures to address personal protection initiatives.
  - (f) Policies and procedures to maintain lines of communication with the commission during a declared emergency.
- (17) Policies and procedures for conducting an after-action assessment following activation of the emergency plan. An after-action assessment shall be prepared and shall include lessons learned, deficiencies in the response to the emergency, deficiencies in the emergency plan, and actions to be taken to correct said deficiencies.
- (B) Each electric utility shall make its emergency plan and amendments available for review by the commission's outage coordinator. In the emergency plan made available to the commission's outage coordinator, the electric utility may redact the following confidential information:
- (1) The electric utility's internal phone numbers.
  - (2) The list of specific critical facilities.
  - (3) Names, home addresses, and home phone numbers of electric utility employees, other than employee information required for the annual emergency contact report pursuant to paragraph (G)(1)(a) of this rule.
  - (4) Security and personal information and numbers (e.g., lock combination, computer access codes, cipher locks, and security codes).
  - (5) Identification of the electric utility's radio and dispatch channels.

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- (6) Identification of the radio and dispatch channels and telephone numbers of the following:
  - (a) Fire department.
  - (b) Police department.
  - (c) Other emergency/safety organizations.
  - (d) Government and public officials.
- (7) Similar information approved by the commission's outage coordinator.
- (C) Each electric utility shall follow and implement the procedures in its emergency plan.
- (D) Each electric utility shall review employee activities to determine whether its procedures in the emergency plan, as set forth in paragraph (B) of this rule, were effectively followed.
- (E) Each electric utility shall establish and maintain policy and procedures to train its operating and emergency response personnel to assure they know and can implement emergency procedures, as set forth in paragraph (B) of this rule.
- (F) Each electric utility shall establish procedures for analyzing failures of equipment and facilities which result in a major interruption of service, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence. If requested by a hospital that is its customer, an electric utility shall confer at least biennially with that hospital regarding power quality issues and concerns related to the utility's facilities, including voltage sags, spikes, and harmonic disturbances, in an effort to minimize those events or their impact on the hospital.
- (G) At the direction of the commission's outage coordinator, each electric utility shall submit:
  - (1) An emergency contact report which shall contain all of the following information:
    - (a) The names, position titles, areas of functional responsibility, business addresses, e-mail addresses, business telephone numbers, cellular telephone numbers, and home telephone numbers of at least three individuals who will serve as emergency contacts.
    - (b) Any available emergency hotline number.
    - (c) The fax number(s) of its emergency contacts.

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- (2) A report confirming that the electric utility has reviewed its emergency plan and, if applicable, has revised and/or updated the plan, or has established a new plan. Each electric utility shall also submit all revisions and updates to its plan or the new plan.
- (3) Either of the following:
  - (a) If the electric utility has not implemented its emergency plan within the past year, a written statement attesting to that fact.
  - (b) If the electric utility has implemented part or all of its emergency plan within the past year, a written summary of both of the following:
    - (i) Any failures of equipment or facilities that were not the result of a major event and that resulted in a major interruption of service and the electric utility implementing its emergency plan.
    - (ii) The electric utility's efforts to minimize the possibility of a recurrence of such failures.
- (H) Each electric utility shall promptly notify the commission's outage coordinator of any change in its emergency contacts.
- (I) Each electric utility shall:
  - (1) Maintain and annually verify and update its list of critical customers.
  - (2) Provide critical customers, within ten business days after acceptance of their application, with a written statement of their options and responsibilities during outages, i.e., the need for backup generators, an alternative power source, or evacuation to another location.
  - (3) Annually notify customers of its critical customer program by bill insert or other notice.
- (J) Every three years, each electric utility shall conduct a comprehensive emergency exercise to test and evaluate major components of its emergency plan and shall invite a cross-section of the following, or their representatives, to the exercise:
  - (1) Mayors and other elected officials.
  - (2) County/regional emergency management directors.
  - (3) Fire and police departments.



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- (4) Community organizations such as the American red cross.
- (5) The commission's outage coordinator.
- (K) When an electric utility has implemented its emergency plan as set forth in paragraph (A) of this rule in response to a major event, natural disaster, or outage, that electric utility may request that the commission waive the testing and evaluation of the emergency plan for the three-year period during which such implementation occurred. To request a waiver, the electric utility must submit a report to the commission's outage coordinator detailing:
  - (1) Its actions in implementing its emergency plan.
  - (2) What part of the emergency exercise the implemented plan replaces.
  - (3) Why the implementation is an appropriate replacement for an emergency exercise of all or a portion of the plan.
  - (4) The electric utility's interactions with the persons listed in paragraph (J) of this rule.
  - (5) Whether the implemented plan indicates that the electric utility's response to the emergency was sufficient. If the commission fails to act upon an electric utility's waiver request within sixty calendar days after such request is submitted to the outage coordinator, the waiver request shall be deemed to have been granted.
- (L) Each electric utility shall coordinate the implementation of its emergency plan, to the extent that such electric utility would rely on or require information or assistance during an emergency, with the following:
  - (1) Any regional or state entities with authority, ownership, or control over electric transmission lines.
  - (2) Any generation provider connected to the electric utility's system.
  - (3) Any other electric utility or transmission owner with facilities connected to the electric utility.
- (M) Each electric utility shall coordinate the implementation of its emergency plan with local, state, and regional emergency management organizations.

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## **AMENDED**

### **4901:1-10-09 Minimum customer service levels.**

- (A) On a calendar monthly basis, each electric utility shall complete the installation of new service or upgrade of service as follows:
- (1) Ninety-nine per cent of new service installations requiring no construction of electric facilities shall:
    - (a) Be completed within three business days, except for meters that are capable of starting and stopping service remotely, after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met.
    - (b) Be completed by the requested installation date, when an applicant requests an installation date more than three business days after the service location is ready for service and all necessary tariff requirements have been met.
    - (c) Be completed within one business day after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met for meters that are capable of starting and stopping service remotely.
  - (2) Ninety per cent of service upgrades and new service installations that require construction of electric facilities (including the setting of the meter) and that are not primary line extensions shall:
    - (a) Be completed within ten business days after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met.
    - (b) Be completed by the requested installation date, when an applicant or customer requests an installation date more than ten business days after the service location is ready for service and all necessary tariff requirements have been met.
  - (3) If an applicant or customer, complies with all pertinent tariff requirements and the electric utility cannot complete the requested service installation or service upgrade as set forth in paragraph (A)(1)(a), (A)(1)(b), (A)(2)(a), or (A)(2)(b) of this rule, then the electric utility shall promptly notify the applicant or customer of the delay, the reasons for the delay, the

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steps being taken to complete the work, and the probable completion date. The electric utility shall make a reasonable attempt to provide such notification at least one business day prior to the end of the prescribed time interval. If a rescheduled completion date cannot be met, the applicant or customer shall be promptly notified. If the rescheduled completion date is delayed more than two business days, written notification, including email, shall be given, stating the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. This notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade pursuant to paragraph (A)(1) or (A)(2) of this rule.

- (4) If the electric utility fails to complete the requested service installation or upgrade as set forth in paragraph (A)(1) or (A)(2) of this rule, as a result of a military action, war, insurrection, riot or strike, or as a result of a lack of access to the premises when necessary, then such failure shall not be included in the monthly percentage calculations for this rule. Each electric utility must justify and document in its records each instance where it relies on any of the exceptions listed in this paragraph.
- (B) On a calendar monthly basis, each electric utility's average (arithmetic mean) answer time for telephonic customer service calls shall not exceed ninety seconds. An electric utility shall set its queue to minimize the number of disconnected calls and busy signals.
  - (1) As used in this paragraph, "answer" means the service representative or automated system is ready to render assistance and/or to accept the information necessary to process the call.
  - (2) Answer time shall be measured from the first ring at the electric utility or at the point the caller begins to wait in queue, whichever comes first.
  - (3) When an electric utility utilizes a menu-driven, automated, interactive answering system (referred to as the system), the initial recorded message presented by the system to the caller shall only identify the company and the general options available to the caller, including the option of being transferred to a live attendant. At any time during the call, the caller shall be transferred to a live attendant if the caller fails to interact with the system for a period of ten seconds following any prompt.
  - (4) Callers shall not be delayed from reaching the queue by any promotional or merchandising material not selected by the customer.
  - (5) When an electric utility is experiencing system related issues or is otherwise unable to accept inbound customer calls, the electric utility shall notify the director of the service monitoring

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and enforcement department, or his or her designee, of such messaging, and the anticipated timeframe for returning to normal business operations.

(C) Electric utilities shall comply with the following reporting requirements:

- (1) When an electric utility fails to meet any minimum service level, as set forth in paragraph (A) or (B) of this rule, for any two months within any twelve-month period, the electric utility shall notify the director of the service monitoring and enforcement department in writing within thirty calendar days after such failure. The notification shall identify any factors that contributed to such failure, as well as any remedial action taken or planned to be taken or rationale for not taking any remedial action. Any failure to report the lack of compliance with the minimum service levels set forth in paragraphs (A) and (B) of this rule constitutes a violation of this rule.
- (2) By March thirty-first of each year, each electric utility shall submit an annual report to the director of the service monitoring and enforcement department, setting forth its actual monthly customer service performance data during the previous calendar year as compared with each of the minimum monthly customer service performance levels set forth in paragraphs (A) and (B) of this rule.
- (3) Performance data during major events, consistent with that reported in accordance with paragraph (C)(2) of rule 4901:1-10-10 of the Administrative Code, may be excluded from the calculations of actual monthly customer service performance pursuant to paragraphs (A) and (B) of this rule.

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## **AMENDED**

### **4901:1-10-10      Distribution system reliability.**

- (A) General. This rule prescribes the measurement of each electric utility's service reliability, the development of minimum performance standards for such reliability, and the reporting of performance against the established standards.
- (B) Service reliability indices and minimum performance standards.
- (1) The service reliability indices are as follows:
- "CAIDI," or the customer average interruption duration index, represents the average interruption duration or average time to restore service per interrupted customer. CAIDI is expressed by the following formula:
- CAIDI equals sum of customer interruption durations divided by total number of customer interruptions
- "SAIFI," or the system average interruption frequency index, represents the average number of interruptions per customer. SAIFI is expressed by the following formula:
- SAIFI equals total number of customer interruptions divided by total number of customers served
- (2) Each electric utility in this state shall file with the commission an application to establish company-specific minimum reliability performance standards.
- (3) Applications for approval of a reliability performance standard shall include:
- (a) A proposed methodology for establishing reliability standards.
- (b) A proposed company-specific reliability performance standard for each service reliability index based on the proposed methodology.
- (c) Supporting justification for the proposed methodology and each resulting performance standard.
- (4) Supporting justification for the proposed methodology and each resulting performance standard.

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- (a) Performance standards should reflect historical system performance, system design, technological advancements, service area geography, customer perception survey results as defined in paragraph (B)(4)(b) of this rule, and other relevant factors.
  - (b) Each electric utility shall periodically (no less than every three years) conduct a customer perception survey. The survey results shall also be used as an input to the methodology for calculating new performance standards. The survey shall be paid for by the electric utility and shall be conducted under staff oversight. The objective of the survey is to measure customer perceptions, including, but not limited to expectations of electric service reliability in terms of the service reliability indices defined in paragraph (B)(1) of this rule.
  - (c) Performance data during major events and transmission outages shall be excluded from the calculation of the indices, proposed standards, and any revised performance standards, as set forth in paragraph (B) of this rule.
- (5) A complete set of work papers must be filed with the application. Work papers must include, but are not limited to, any and all documents prepared by the electric utility for the application, a list of assumptions used in establishing its proposed methodology, and a narrative or other justification for its proposed methodology and each resulting performance standard.
- (6) Unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner, the following procedural schedule shall apply:
- (a) Upon the filing of an application, the commission, legal director, deputy legal director, or an attorney examiner will schedule a technical conference. The purpose of the technical conference is to allow interested persons an opportunity to better understand the electric utility's application. The electric utility will have the necessary personnel in attendance at this conference so as to explain, among other things, the filing, the work papers and the manner in which methodologies and resulting performance standards were devised. The conference will be held at the commission offices.
  - (b) Within twenty calendar days after the technical conference, any person may file comments.
  - (c) Within thirty calendar days after the technical conference, the commission's staff may file comments.
  - (d) Within fifty calendar days after the technical conference, any person may file a response to the comments.

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- (e) If it appears to the commission that the proposals in the application may be unjust or unreasonable, the commission shall set the matter for hearing and shall publish notice of the hearing in accordance with section 4909.10 of the Revised Code. At such hearing, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the electric utility.
- (f) Interested persons wishing to participate in the hearing shall file a motion to intervene no later than thirty calendar days after the issuance of the entry scheduling the hearing, unless ordered otherwise by the commission, legal director, deputy legal director, or attorney examiner. This rule does not prohibit the filing of a motion to intervene and conducting discovery prior to the issuance of an entry scheduling a hearing.

(7) An electric utility may request to revise its authorized performance standards ~~(starting with the next succeeding calendar year)~~ by filing its revisions and supporting justification for such revisions with the commission for approval pursuant to paragraph (B)(6) of this rule, unless otherwise ordered by the commission, legal director, deputy legal director, or attorney examiner.

(8) The authorized performance standards approved for an electric utility shall remain in place until superseded by revised standards as approved by the commission.

(C) Annual report. Each electric utility shall file with the commission an annual report by March thirty-first of each year. That annual report shall include the following information regarding the previous calendar year:

- (1) Annual performance and supporting data for each service reliability index set forth in paragraph (B) of this rule both with and without exclusions for major events and transmission outages. Supporting data includes, for example, the number of customers served, the number of customer interruptions, the number of customer minutes interrupted, SAIFI data for a major event, CAIDI data for a major event, information concerning a transmission interruption, and a listing of distribution circuits interrupted during a transmission interruption.
- (2) Performance on the same indices during major events and transmission outages, reported in separate categories with their respective supporting data.
- (3) Data for the total number of sustained outages, customers interrupted, and customer minutes interrupted for each outage cause code, all of which shall be reported in the following versions:

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- (a) Data excluding major events and transmission outages.
- (b) Data for major events only.
- (c) Data for transmission outages only.
- (4) Data for the total number of momentary interruptions on the electric utility's system where practicable.
- (5) Each electric utility shall file the annual report required by paragraph (C) of this rule in an electronic form prescribed by the commission or its staff.
- (D) If the annual performance of an electric utility does not meet the electric utility's performance standard for any index, the electric utility shall ~~submit an action plan to the director of the service monitoring and enforcement department~~file with the commission an action plan, by March thirty-first of the year following the year when the standard was missed.
  - (1) The action plan shall include the following:
    - (a) Factors which contributed to the actual performance level for that index.
    - (b) A proposal for improving performance to a level that meets or exceeds the performance standards authorized for each missed reliability index, including each action taken or planned to be taken, and the anticipated completion date.
  - (2) The action plan shall be ~~submitted~~filed in an electronic form prescribed by the commission or its staff.
  - (3) A status report on each action included in the action plan shall be submitted to the director of the service monitoring and enforcement department upon request of the staff.
- (E) Failure to meet the same performance standard for two consecutive years shall constitute a violation of this rule.



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## **AMENDED**

### **4901:1-10-11      Distribution circuit performance.**

- (A) General. This rule sets forth a method for determining the performance of each electric utility's distribution circuits.
- (B) Circuit performance methodology. The following provisions apply to the determination of the appropriate method for calculating circuit performance.
  - (1) Circuit performance data during major events and transmission outages shall be excluded from the calculation of circuit performance.
  - (2) Each electric utility shall submit, for review and acceptance by the director of the service monitoring and enforcement department, a method to calculate circuit performance, based on the service reliability indices defined in paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code and other factors proposed by the electric utility, and supporting justification for that method. An electric utility may revise the method it uses for calculating circuit performance (starting with the next succeeding reporting period) by submitting such revisions and supporting justification for such revisions to the director of the service monitoring and enforcement department for review and acceptance.
  - (3) If the electric utility and the director of the service monitoring and enforcement department cannot agree on the method to calculate circuit performance, then the director of the service monitoring and enforcement department shall issue a letter rejecting the proposal within forty-five calendar days of its submittal. The electric utility or the director may request a hearing to establish the appropriate calculation methodology. At such hearing, the burden of proof to show that the calculation methodology is just and reasonable shall be upon the electric utility.
  - (4) No proposal shall be effective until it is either accepted by the director or, in the event of a hearing, approved by the commission.
- (C) Worst performing circuits. The following provisions apply to the reporting of each electric utility's eight per cent worst performing circuits:
  - (1) Each electric utility shall submit, no later than ninety calendar days after the end of its reporting period, a report to the director of the service monitoring and enforcement

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department that identifies the worst performing eight per cent of the electric utility's distribution circuits during the previous twelve-month reporting period.

- (2) Unless otherwise approved by the commission, each electric utility's reporting period for purposes of paragraph (C) of this rule shall begin on September first of each year and shall end on August thirty-first of the subsequent year.
- (3) The report prescribed by paragraph (C) of this rule shall provide the following information for each reported distribution circuit:
  - (a) The circuit identification number.
  - (b) The location of the primary area served by the circuit.
  - (c) The approximate number of customers on the circuit by customer class.
  - (d) The circuit ranking value.
  - (e) The values and supporting data for each circuit's service reliability indices for the reporting period:
    - (i) System average interruption frequency index (SAIFI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.
    - (ii) Customer average interruption duration index (CAIDI) determined according to paragraph (B)(1) of rule 4901:1-10-10 of the Administrative Code.
    - (iii) System average interruption duration index calculated by multiplying the SAIFI times the CAIDI.
  - (f) The number of safety and reliability complaints, based on the definition of complaint pursuant to paragraph (A) of rule 4901:1-10-21 of the Administrative Code.
  - (g) The number of critical customers on the circuit.
  - (h) An identification of each circuit lockout that occurred during the reporting period, together with an explanation of the cause and duration of each such circuit lockout.
  - (i) The total number of outages experienced during the reporting period for each such outage.

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- (~~ki~~ ji) The total number of out-of-service minutes experienced during the reporting period for each such outage.
  - (~~ki~~) An identification of any major factors or events that specifically caused the circuit to be reported among the worst performing circuits and, if applicable, the analysis performed to determine those major factors.
  - (~~hi~~) An action plan, including the start and completion dates of all remedial action taken or planned, to improve circuit performance to a level that removes the circuit from the report submitted pursuant to paragraph (C) of this rule within the next two reporting periods. If the electric utility does not believe remedial action is necessary, then the electric utility must state the rationale for not taking any remedial action.
- (D) If the director of the service monitoring and enforcement department believes that an action plan submitted pursuant to paragraph (C)(3)(l) of this rule is insufficient or unreasonable, the director shall provide written notice to the electric utility within forty-five calendar days of the submittal, otherwise the report is deemed approved. Should no agreement be reached between the electric utility and the director of the service monitoring and enforcement department on a modified action plan, within thirty calendar days following the rejection of the action plan, the electric utility shall apply to the commission for a hearing. At such hearing, the burden of proof to show that the modified action plan is just and reasonable shall be upon the electric utility.
- (E) Each electric utility shall submit the reports required by this rule, on electronic media, in a format prescribed by the commission or its staff.
- (F) Electric utilities shall take sufficient remedial action to make sure that no circuit is listed on three consecutive reports. The inclusion of a given circuit in the report under paragraph (C) of this rule for three consecutive reporting periods shall create a rebuttable presumption of a violation of this rule.

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## **AMENDED**

### **4901:1-10-12 Provision of customer rights and obligations.**

Each electric utility shall provide to new customers, upon application for service, and existing customers upon request, a written summary of their rights and obligations under this chapter. This written summary shall also be prominently posted on the electric utility's website. The summary shall be in clear and understandable language. Each electric utility shall submit the summary or amendments thereto to the chief of the reliability and service analysis division for review at least sixty calendar days prior to mailing the summary to its customers. For purposes of this rule "new customer" means a customer who opens a new account and has not received the latest version of the customer rights summary. The summary shall include, but not be limited to, the following:

(A) The electric utility and commission procedures for complaints, which shall include:

(1) How complaints are made to the electric utility, including a local or toll free number, an address and a website, if applicable.

(2) A statement that:

"If your complaint is not resolved after you have called (your electric utility), or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."

"The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>."

(B) Customer rights and responsibilities, which shall include:

(1) A list of customer rights and obligations relating to installation of service, payment of bills, disconnection and reconnection of service, and meter testing.

(2) Information detailing the customer's responsibility to notify the electric utility of material changes in the customer's equipment or usage within the time reasonably necessary to permit the electric utility to provide necessary facilities and acquire additional power supply, if

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needed. The summary shall provide examples of such changes in customer equipment and usage.

(3) A description of the following customer rights:

(a) The circumstances under which the electric utility may demand and/or hold security deposits.

(b) The circumstances under which customers may obtain deferred payment plans and low-income assistance plans, and information concerning those plans.

(4) The toll-free telephone number(s) for the "one-call" or "call-before-you-dig" protection service(s) to locate underground utility facilities.

(5) An explanation of what each applicant must do to receive service from that electric utility.

(6) Information explaining when a customer will be charged for the cost of modifying service, installing a meter, and/or providing facilities necessary to serve that customer.

(C) A statement notifying customers that, when electric utility employee(s) or agent(s) seek access to the customer's and/or landlord's premises, the customer or landlord may request the employee/agent to show photo identification and to state the reason for the visit.

(D) A statement concerning the availability of rate information, which shall include:

(1) A statement that the electric utility's rates and tariffs are available for review at the electric utility's office, on the electric utility's website, and on the commission's website, or the customer can request a copy be sent to them.

(2) A statement that, upon inquiry, the electric utility will inform customers about alternative rates and service options and how to obtain details about the programs. ~~by a customer regarding rates or energy efficiency, the electric utility will disclose to the customer the existence and availability of the electric utility's alternative rates or any energy efficiency programs.~~

(E) A statement that customers may review a copy of the electric service and safety standards on the commission's website or obtain a copy from the commission upon request.

(F) Information on privacy rights, which shall include:

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- (1) A statement that the electric utility is prohibited from disclosing a customer's account number without the customer's written consent or electronic authorization or without a court or commission order, except for the following purposes:
  - (a) The electric utility's collections and/or credit reporting.
  - (b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.
  - (c) Governmental aggregation.
- (2) A statement that the electric utility is prohibited from disclosing a customer's social security number without the customer's written consent or without a court order, except for the following purposes:
  - (a) The electric utility's consumer credit evaluation.
  - (b) The electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting.
  - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, such as the percentage of income payment plan programs.
- (3) A statement that the electric utility shall not disclose customer energy usage data that is more granular than the monthly historical consumption data, provided on the customer pre-enrollment list pursuant to paragraph (E) of rule 4901:1-10-29 of the Administrative Code, without the customer's written consent or electronic authorization or without a court or commission order.
- (4) A statement that customers have the right to request up to twenty-four months of their usage history, payment history, and detailed consumption data, if available, and time differentiated price data, if applicable, from the electric utility without charge.
- (5) A statement that customers have the right to prohibit the electric utility from including their names on mass customer lists made available to CRES providers.
- (6) A statement that staff is not prohibited from accessing records or business activities that would allow it to effectively monitor customer calls to the electric utility's call center.

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- (G) A statement that customers have the right to obtain, from their electric utility, a list of available CRES providers, that are actively seeking residential customers in its service territory and their phone numbers.
- (H) A statement that customers returning to the electric utility's standard offer service due to default, abandonment, slamming, or certification rescission of a CRES provider will not be liable for any costs associated with the switch.
- (I) Information concerning notice of a change in the customer's supplier of electric service.
  - (1) A statement that, if a change in a residential or small commercial customer's electric services company is initiated, the electric utility is required to send the customer a notice confirming the change.
  - (2) A statement that the customer has a right to cancel any change in its supplier of electric service within seven calendar days after the notice has been sent by calling the electric utility at the telephone number on the notice.
- (J) Information explaining the procedures customers must follow if they believe their generation and/or transmission service has been switched without their consent. This explanation shall include, at a minimum, the following information:
  - (1) If a customer participates in the percentage of income payment plan or in a governmental aggregation, the customer's supplier of generation and/or transmission services appearing on the customer's bill may be a company other than the electric utility.
  - (2) If the customer's electric bill reflects a supplier of electric service not chosen by the customer, the customer should call the commission to initiate a slamming investigation.
  - (3) If the staff determines that the customer's service was changed without proper authorization:
    - (a) The customer will be switched back to the customer's previous supplier of electric service without charge to the customer.
    - (b) The customer's account will be credited for any switching fees resulting from the customer being switched without proper authorization.
    - (c) The customer will be credited or reimbursed for any charges in excess of what the customer would have paid absent the unauthorized change in electric service provider.
- (K) Information concerning actual meter readings.

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- (1) A statement that the electric utility is required to obtain an actual meter reading when the customer initiates or terminates electric service with the electric utility, if the meter has not been read within the preceding sixty days.
  - (2) A statement that, if the meter has not been read within the preceding thirty-three to fifty-nine days, the electric utility is required to inform the customer, when the customer contacts the electric utility to initiate or terminate service, of the option to have an actual meter read, at no charge.
  - (3) A statement that the customer may request two actual meter reads per calendar year, at no charge, if the customer's usage has been estimated for more than two of the consecutively preceding billing cycles or if the customer has reasonable grounds to believe that the meter is malfunctioning.
- (L) A statement that customers have the right to obtain the approximate generation resource mix and environmental characteristics in accordance with rule 4901:1-10-31 of the Administrative Code. The statement shall include a notification that customers shall be provided a link to the EDU's website or the commission's environmental disclosure information for consumers' website containing the information, or at the request of the customer, a hardcopy of the data at no cost to the customer.



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**NO CHANGE**

**4901:1-10-13      Employee identification.**

Any electric utility employee or agent seeking access to the customer's or landlord's premises shall identify himself/herself by displaying company photo identification and, upon request, state the reason for the visit.

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**AMENDED**

**4901:1-10-14 Establishment of credit for nonresidential applicants and customers.**

- (A) Each electric utility shall establish written procedures to determine creditworthiness of nonresidential applicants and customers for service based solely on the customer's or applicant's creditworthiness. These procedures shall be submitted in current form to the staff upon request.
- (B) Upon request, each electric utility shall provide applicants/customers with the following information:
  - (1) Their credit history with that company.
  - (2) A copy of this rule, the commission's website and the toll-free and TTY numbers of the commission's call center.
- (C) An applicant shall be deemed creditworthy if one of the following criteria is satisfied:
  - (1) The electric utility verifies that the applicant is a creditworthy property owner or verifies the applicant's creditworthiness in accordance with legally accepted practices to verify credit. ~~Verification methods for residential applicants shall include, but not be limited to, consideration of the applicant's employer and length of service, reference letters, and substantive credit cards;~~
  - (a) The company may request the applicant's social security or tax identification number in order to obtain credit information and to establish identity, however if the applicant elects not to provide his/her social security number or tax identification number, the utility company may not refuse to provide service.
  - (b) If the applicant declines the utility company's request for a social security or tax identification number, the utility company shall inform the applicant of other options for establishing creditworthiness.
  - (2) The applicant had a prior account with an electric utility for the same class of service within two years before the date of application, and the applicant provides proof of the prior account, unless during the final year of prior service one of the following occurred:
    - (a) The company disconnected applicant for nonpayment.

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- (b) The applicant failed to pay its bill by the due date at least two times.
- (c) The company disconnected the applicant for a fraudulent practice, tampering, or unauthorized reconnection.
- (3) The applicant furnishes a reasonably safe guarantor, who is a customer of that electric utility, to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested.
- (4) The applicant makes a cash deposit as set forth in this rule.
- (D) Unless otherwise provided in paragraph (G) of this rule, when an electric utility fails to demand security within thirty calendar days after initiation of service, it may not require security for that service.
- (E) Deposit to establish tariffed service; review of deposit upon customer request.
  - (1) An electric utility may require an applicant who fails to establish creditworthiness to make a deposit. The amount of the deposit shall not exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months.
  - (2) Upon the customer's request, the amount of the deposit paid is subject to adjustment, when the deposit paid differs by twenty per cent or more from the deposit which would have been required, based upon actual usage for three consecutive billing periods while taking into account seasonal variations in usage.
- (F) Each electric utility which requires a cash deposit shall communicate to the applicant/customer:
  - (1) The reason(s) for its decision.
  - (2) Options available to establish credit (including a guarantor to secure payment).
  - (3) The applicant/customer's right to contest the electric utility's decision and to demonstrate creditworthiness.
  - (4) The applicant/customer may appeal the electric utility's decision to the staff.
  - (5) The commission's website and the toll-free and TTY telephone numbers of the commission's call center.

Upon request of the applicant/customer, the information in this rule shall be provided in writing.

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(G) Deposit to reestablish creditworthiness for tariffed service.

(1) An electric utility may require a customer to make a deposit, not to exceed one hundred thirty per cent of the estimated annual average monthly bill for the customer's tariffed service for the ensuing twelve months, on an existing account, as set forth in this rule, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that electric utility.

(2) A deposit may be required if the customer meets one of the following criteria:

(a) After considering the totality of the customer's circumstances, a utility company may require a deposit if the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated service provided by that utility company.

(b) The customer has had service disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection during the preceding twelve months.

(H) Upon acceptance of a deposit, each electric utility shall furnish a receipt to the applicant or customer which shows:

(1) The name of the applicant.

(2) The address of the premises currently served or to be served.

(3) The billing address for service.

(4) The amount of the deposit.

(5) A statement as to the interest rate to be paid and the length of time the deposit must be held to qualify for interest.

(6) The conditions for refunding the deposit.

(I) Each electric utility shall:

(1) Review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the nonresidential customer's account, plus interest accrued, if during the preceding twenty-four months, all~~both~~ of the following are true:

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(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.

(b) The customer had not more than three past due bills.

(c) The customer is not delinquent at the time of review.

(2) Upon customer request, but not more than annually, review each nonresidential account after the first two years of service for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if, with regard to the preceding twelve months, ~~all~~both of the following are true:

(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection.

(b) The customer had not more than two past due bills.

(c) The customer is not delinquent at the time of review.

(3) Annually review each nonresidential account, for which a deposit is being held, and shall promptly refund the deposit or credit the customer's account, plus interest accrued, if during the preceding twelve months:

(a) The customer's service was not disconnected for nonpayment, a fraudulent practice, tampering, or unauthorized reconnection; and

(b) The customer had not more than two past due bills.

(c) The customer is not delinquent at the time of review.

(J) Each electric utility shall pay interest on a deposit of not less than three per cent per annum, provided the company has held the deposit for at least six consecutive months.

(K) When service is terminated or disconnected, each electric utility shall promptly:

(1) Apply the deposit and interest accrued to the final bill for service.

(2) Refund any amount in excess of the final bill to the customer, unless the amount of the refund is less than one dollar.

A transfer of service from one premise to another premise within the electric utility's certified territory or service area shall not be deemed a disconnection under this paragraph.

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(L) Deposits for customers leaving bundled or standard offer services.

When a customer who has previously paid a deposit to the electric utility switches to a competitive retail electric service provider and is no longer served under an electric utility's bundled service or standard offer service, the electric utility shall apply the electric utility's generation service portion of the deposit and the accrued interest to the amounts due and payable on the next bill and refund any amount remaining to the customer, unless the amount of the refund is less than one dollar.

~~\_(M) Residential service guarantors.~~

- ~~(1) Each electric utility shall annually review an account where the residential customer provided a guarantor. When a residential customer satisfies the requirements for a deposit refund under paragraph (I) of this rule, each company shall notify the guarantor in writing within thirty days that he/she is no longer obligated for that account.~~
- ~~(2) The guarantor shall sign a written guarantor agreement provided by the commission and posted on the commission website. The electric utility shall provide the guarantor with a copy of the signed agreement upon request and shall keep a copy of the original on file during the term of the guaranty.~~
- ~~(3) Each electric utility shall provide to the guarantor of a residential account all notices of disconnection of service which are provided to the customer.~~
- ~~(4) Upon the residential customer's default, an electric utility may:~~
  - ~~(a) Transfer the balance owed by the customer, not to exceed the amount for sixty days service, to his/her guarantor's account; and~~
  - ~~(b) Disconnect service under the guaranty, if the guarantor fails to pay the customer's balance within thirty days after notice of the customer's default or fails to make other payment arrangements acceptable to the electric utility.~~
- ~~(5) Under the circumstances where a guarantor's electric utility service is subject to disconnection or has requested release of financial responsibility related to a customer's account, the electric utility shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the date of the notice to the guaranteed customer). The electric utility shall also advise the customer that, prior to the specific end date stated in the notice he/she must reestablish credit through one of the alternative means set forth in paragraph (C) of this rule, or be~~

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~~subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-18 of the Administrative Code.~~

(~~N~~M) Each electric utility shall retain records of customer deposits for at least one year after the deposit, including interest, is returned and/or applied to the customer's bill.

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## **AMENDED**

### **4901:1-10-15 Reasons for denial or disconnection of nonresidential service.**

Each electric utility may refuse or disconnect service to nonresidential customers for only the following reasons:

- (A) When the customer violates or fails to comply with an applicable electric utility contract or tariff(s).
- (B) When electric utility service to a customer violates any law of this state or any political subdivision thereof, or any federal law or regulation.
- (C) When a consumer tampers with electric utility property or engages in a fraudulent practice to obtain service, as set forth in rule 4901:1-10-20 of the Administrative Code.
- (D) For using electricity or equipment which adversely affects electric utility service to other customers, e.g., voltage fluctuations, power surges, and interruptions of service.
- (E) When a safety hazard to consumers or their premises, the public, or to the electric utility's personnel or facilities exists.
- (F) When the customer, landlord of the tenant/customer, or tenant leasing the landlord/customer's premises refuses access to electric utility facilities or equipment on the customer's property or property leased by the customer.
- (G) For nonpayment of electric utility bills and any tariffed charges, including security deposits and amounts not in bona fide dispute. Where the customer has registered a complaint with the commission's call center or filed a formal complaint with the commission which reasonably asserts a bona fide dispute, the electric utility shall not disconnect service if the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year.
- (H) When the customer has moved from the service location and ~~no new applicant is on record~~  
~~the property owner is otherwise subject to disconnect.~~
- (I) For repairs, provided that the electric utility has notified customers prior to scheduled maintenance interruptions in excess of six hours.



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- (J) Upon the customer's request.
- (K) When a former customer, whose account with that electric utility is in arrears for service furnished at the premises, consumes service at, or has requested service for, such premises.
- (L) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the electric utility's electrical system.
- (M) For other good cause shown.

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## **NO CHANGE**

### **4901:1-10-16 Notice of disconnection of nonresidential service.**

(A) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each electric utility shall provide the nonresidential customer with written notice of pending disconnection, when either of the following conditions exists:

- (1) Violation of or noncompliance with the contract or electric utility's tariff(s) which applies to customer service, other than nonpayment of bills (which is addressed in rule 4901:1-10-17 of the Administrative Code).
- (2) The customer refuses access to electric utility facilities or equipment on the customer's property or property leased by the customer.

The notice shall set forth the earliest date on which service may be disconnected, which date shall not be less than five calendar days after the postmark date on the notice.

(B) Prior notice from the electric utility is not required when any one or more of the following conditions exists:

- (1) When an emergency may threaten the health or safety of a person, a surrounding area, or the operation of the electric utility's electrical system.
- (2) When a safety hazard to consumers or their premises, the public, or the electric utility's personnel or facilities exists.
- (3) When a consumer tampers with the electric utility's property.

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## **AMENDED**

**4901:1-10-17          Payment schedule and disconnection procedures for nonpayment by nonresidential customers.**

- (A) A nonresidential customer's bill for tariffed services shall not be due earlier than twenty-one calendar days from the date of the postmark on the bill. If the bill is not paid by the due date, it then becomes past due.
- (B) The utility may disconnect service, after at least five days notice, during normal business hours. However, no disconnection for nonpayment shall be made after twelve-thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed. If a meter with remote reconnection capabilities is installed at the premise, no disconnections for nonpayment shall be made after twelve-thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed.
- (C) Except as otherwise provided by contract approved by the commission pursuant to section 4905.31 of the Revised Code, each electric utility shall provide the nonresidential customer with a written notice of pending disconnection for non-payment of tariffed service, which notice shall be postmarked not less than five calendar days before service is disconnected.
- (D) The disconnection notice shall clearly display each of the following items:
  - (1) The delinquent billing account number, total amount past due, reconnection charge, and any security deposit owed.
  - (2) The earliest date when disconnection may occur.
  - (3) The address and phone number of the electric utility's office for customers to contact about their accounts.
  - (4) A statement that the staff is available to render assistance with unresolved complaints, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
  - (5) A statement that the customer's failure to pay the amount required at the electric utility's office or to one of its authorized agents by the date specified in the notice may result in a

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security deposit and in a charge for reconnection, together with the amount of the reconnection charge.

- (6) If any non-tariffed charges appear on the bill, a statement that the nonpayment of non-tariffed charge(s) shall not result in the disconnection of distribution service;
- (7) If any charges for competitive retail electric services appear on the bill, a statement that the failure to pay charges for competitive retail electric services may result in loss of those products and services.
- (8) If any charges for competitive retail electric services appear on the bill a statement that the failure to pay charges for competitive retail electric service may result in cancellation of the customer's contract with the competitive retail electric service provider, and returning of the customer to the electric utility's standard offer for generation services.

The information required by this paragraph may be included in documents accompanying the disconnection notice.

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## **AMENDED**

### **4901:1-10-18      Reconnection of nonresidential service.**

- (A) Unless a nonresidential customer requests the reconnection to occur at a later time in which the utility company regularly performs service reconnections ~~otherwise~~, an electric utility shall reconnect service by the close of the following regular business day after either of the following:
- (1) The electric utility receives both of the following:
    - (a) The full amount in arrears, for which service was disconnected, or the amount in default on an agreed-upon deferred payment plan.
    - (b) Any security deposit authorized under this chapter and any tariffed reconnection charges.
  - (2) The customer establishes that the conditions which warranted disconnection of service have been eliminated.
- (B) Before service is reconnected under this rule, no electric utility may request or require a nonresidential customer to pay any of the following to have service reconnected:
- (1) Any amount owed but not yet past due.
  - (2) When the customer has multiple accounts in the same customer class, any amount owed on those other billing accounts.

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## **AMENDED**

### **4901:1-10-19 Delinquent residential bills.**

In addition to the requirements of Chapter 4901:1-18 of the Administrative Code, no electric utility may disconnect service to a residential customer when:

- (A) That customer fails to pay any charge for a non-tariffed service, including competitive retail electric service (CRES).
- (B) Any authorized agent or CRES provider providing billing and collection services for the electric utility fails to submit payment for the customer's tariffed distribution and/or transmission service(s) rendered by that electric utility.
- (C) The customer fails to pay any amount in bona fide dispute. Where the customer has registered a complaint with the commission's call center or filed a formal complaint with the commission which reasonably asserts a bona fide dispute, the electric utility can-not disconnect service when the customer pays either the undisputed portion of the bill or the amount paid for the same billing period in the previous year.
- (D) The electric utility issues a disconnection notice which fails to separate regulated from non-tariffed charges, including CRES charges.
- (E) The electric utility fails to include on the disconnection notice a statement that:
  - (1) Failure to pay charges for non-tariffed products or services may result in loss of those products or services.
  - (2) Failure to pay charges for CRES may result in cancellation of the customer's CRES contract by the CRES provider, and return to the electric utility's standard-offer generation service. This provision is applicable only on accounts issued a consolidated bill for electric services.

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## **AMENDED**

### **4901:1-10-20      Fraudulent act, tampering, and theft of service.**

- (A) Each electric utility shall establish and maintain an anti-theft and anti-tampering plan and shall ~~make its plan available for review by submit its plan and subsequent amendments to~~ the director of the service monitoring and enforcement department.
- (B) Disconnection of service for tampering or unauthorized reconnection.
- (1) An electric utility may disconnect service for safety reasons without prior notice to a customer in either of the following circumstances:
- (a) The electric service meter, metering equipment, or associated property was damaged, interfered or tampered with, displaced, or bypassed.
- (b) A person not authorized by the electric utility has reconnected service.
- (2) Each electric utility that has disconnected service under this paragraph shall tag or seal the customer's meter and hand deliver a written notice to the customer or consumer at the service location. If no adult customer or consumer is present, each electric utility shall attach written notice to a conspicuous place on the premises. When an electric utility reasonably believes that tagging or sealing the meter, hand delivering a notice, or posting a notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant. The notice shall clearly display each of the following items:
- (a) An explanation that service was disconnected because one of the following circumstances was found:
- (i) The meter, metering equipment and/or electric utility property was tampered with.
- (ii) A person not authorized by the electric utility reconnected the customer's service.
- (b) The electric utility's telephone number of the electric utility's office.
- (c) A statement that the customer may contest the disconnection by contacting an electric utility representative at the telephone number provided.

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(d) A statement that, if the customer does not contest the disconnection, the electric utility is not required to restore service until the customer has provided satisfactory assurances that such tampering or unauthorized reconnection has ceased and has paid or made satisfactory arrangements to pay the electric utility an amount that the electric utility calculates for unmetered service, any defaulted amount, any damage to the electric utility's equipment or meter, any security deposit (consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges.

(e) A statement that the staff is available to render assistance, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.

(3) If the customer meets with the electric utility to contest the disconnection, the electric utility shall timely mail or deliver its decision to the customer. If the electric utility's decision is that service can be reconnected, the electric utility may notify the customer by telephone to arrange for reconnection.

(C) Disconnection of service for fraudulent act.

An electric utility may disconnect service, after following the steps set forth in this paragraph, when a customer uses any fraudulent act, as defined by paragraph (QR) of rule 4901:1-10-01 of the Administrative Code, to obtain or maintain service

(1) Before it may disconnect service for a fraudulent act, each electric utility shall ~~hand-deliver or send~~ written notice to the customer or consumer at the service location. ~~If no adult customer or consumer is present, the electric utility shall attach written notice to a conspicuous place on the premises. When an electric utility reasonably believes that hand-delivering or posting notice may jeopardize employee safety, it shall promptly mail the notice, return receipt requested, to the customer or occupant.~~

(2) The notice shall clearly display each of the following items:

(a) A description of the alleged fraudulent act.

(b) The address and telephone number of the electric utility's office.

(c) A statement that the customer may contest the electric utility's findings by requesting a meeting with an electric utility representative.

(d) A statement that the electric utility may disconnect service if either of the following occurs:



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- (i) The customer does not contact the electric utility representative to contest the findings of the fraudulent act, within ~~five~~three business days after the electric utility mails receiving this notice.
- (ii) The customer does not provide a satisfactory explanation at that meeting.
- (e) A statement that, if service is disconnected, the electric utility is not required to reconnect service until the customer pays or makes satisfactory arrangements to pay the electric utility the bill for service that was fraudulently obtained or maintained, any security deposit (consistent with rule 4901:1-10-14 of the Administrative Code), and any tariffed reconnection and investigation charges.
- (f) A statement that the staff is available to render assistance, and the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (3) An electric utility may terminate service for a fraudulent act no sooner than five business days after mailing the written notice in the following circumstances:
  - (a) ~~No sooner than three business days after delivery of the written notice required by this paragraph, if~~ the customer does not contact the electric utility at the telephone number provided, or-
  - (b) ~~No sooner than two business days after the customer received the electric utility's written If~~ after an -adverse decision subsequent to the discussion between the customer and the electric utility representative, in the event that the customer initiated the discussion.
- (D) Each electric utility shall maintain records that clearly set forth the basis for its decision to terminate service for a fraudulent act, tampering, unauthorized reconnection, or theft of service, and the steps taken under this rule.

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## **AMENDED**

### **4901:1-10-21 Customer complaints and complaint-handling procedures.**

- (A) As used in this rule, customer/consumer complaint means a customer/consumer contact when such contact necessitates follow-up by or with the electric utility to resolve a point of contention.
- (B) Each electric utility shall make good faith efforts to settle unresolved disputes, which efforts may include meeting with the customer/consumer at a reasonable time and place.
- (C) Except as ordered by the commission or directed by the staff in disconnection or emergency cases, each electric utility shall investigate customer/consumer complaints and provide a status report within three business days of the date of receipt of the complaint to:
  - (1) The customer/consumer, when investigating a complaint made directly to the electric utility.
  - (2) The customer/consumer and staff, when investigating a complaint referred to the electric utility by the commission or staff.
- (D) If an investigation is not completed within ten business days, the electric utility shall provide status reports, either orally or in writing, to update the customer/consumer, or to update the customer/consumer and staff, where appropriate, every ~~three~~<sup>five</sup> business days until the investigation is complete, unless agreed to otherwise.
- (E) The electric utility shall inform the customer/consumer, or the customer/consumer and staff, where appropriate, of the results of the investigation, orally or in writing, no later than five business days after completion of the investigation. The customer/consumer or staff may request the final report to be in writing.
- (F) If the customer/consumer disputes the electric utility's report(s), the electric utility shall inform the customer/consumer that the staff is available to mediate complaints. The company shall provide the customer/consumer with the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.
- (G) If a customer contacts an electric utility concerning competitive retail electric service (CRES) issues, the electric utility shall take the following actions:
  - (1) Review the issue with the customer to determine whether it also involves the electric utility.

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(2) Coordinate the resolution of any joint issues with the CRES provider.

(3) Refer the customer to the appropriate CRES provider only in those instances where the issue lacks any electric utility involvement.

(H) Slamming complaints.

(1) A slamming complaint is a customer's allegation that the customer's supplier of electric service has been switched without the customer's authorization.

(2) If a customer contacts an electric utility with a slamming complaint after the end of the seven-day rescission period for the customer's enrollment with the alleged slamming CRES provider, the electric utility shall take the following actions:

(a) Provide the customer with the enrollment information contained in its records.

(b) Refer the customer to the commission and provide the customer with the commission's current address, toll-free and TTY numbers of the commission's call center, and the commission's website.

(c) Cooperate with the staff in any subsequent investigations of the slamming complaint, including assisting the staff in determining the amount of any restitution owed to the customer pursuant to paragraph (C)(5) of rule 4901:1-21-08 of the Administrative Code if the customer was switched without authorization from the electric utility's standard offer service.

(3) If a customer initiates a slamming complaint with the staff within thirty calendar days after being issued a bill from the alleged slammer, the customer shall not be required to pay the current charges assessed by the alleged slammer until the staff determines that the change in the customer's electric service provider was authorized.

(4) If the staff determines that a customer's service was switched without the customer's authorization, the staff shall notify the electric utility of such determination. After such notification, and if the electric utility is not at fault, the electric utility may then seek reimbursement from the CRES provider that improperly initiated the switch for any incremental costs incurred by the electric utility to correct the unauthorized switch including any switching fees. The electric utility shall provide the CRES provider an itemized list of any such incremental costs.

(5) If correcting an unauthorized switch involves returning the customer to its previous CRES provider, the electric utility shall make the corrective switch at the next regularly scheduled

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meter reading date following receipt of the enrollment request from the previous CRES provider. Such corrective switch shall be made in accordance with the electric utility's normal practices and procedures for switching customers, except that the electric utility shall not charge, or shall credit to the customer, any switching fees and the electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.

- (6) If correcting an unauthorized switch involves returning the customer to the electric utility's standard offer service, the electric utility shall make the corrective switch at the next regularly scheduled meter reading date in accordance with the electric utility's normal practices and procedures for switching customers, except that the electric utility shall not charge or shall credit to the customer any switching fees and the electric utility is not required to issue the customer the notice required by paragraph (F)(1) of rule 4901:1-10-29 of the Administrative Code.
- (7) If, as part of correcting an unauthorized switch, a customer who was taking standard offer service from the electric utility at the time of the unauthorized switch is returned to standard offer service, the customer shall not be subject to any minimum stay or other commission-approved alternative for returning customers, unless the customer would have been subject to such a requirement had the unauthorized switch not occurred.
- (8) If the electric utility switches the customer served by a CRES provider to the electric utility's standard offer service without authorization by the customer, without authorization by the appropriate CRES provider or pursuant to a commission order, the electric utility shall take the following actions:
  - (a) Not charge, or shall credit the customer, any switching fees and shall return the customer to the previous CRES provider, making the corrective switch at the next regularly scheduled meter reading date following receipt of the enrollment request from the previous CRES provider.
  - (b) By the next billing cycle, take all three of the following actions:
    - (i) Credit or refund to the customer any fees previously charged for switching the customer to the electric utility.
    - (ii) Either of the two following actions:
      - (a) If reported to staff within thirty calendar days after being issued a bill from the alleged slammer, absolve the customer of any liability for any charges assessed

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to the customer, excluding the distribution charges and refund to the customer any charges collected from the customer.

- (b) If reported to the staff more than thirty calendar days after being issued a bill by the alleged slammer, credit the customer any fees the electric utility charged in excess of the amount the customer would have paid its previous CRES provider for the same usage.
- (iii) If the customer can not be returned to the original contract terms with its previous CRES provider, the slamming electric utility shall credit or refund to the customer, the value of the customer's contract with the previous CRES provider for the remaining term of the contract immediately prior to the slam.
- (c) Reimburse the CRES provider for any incremental costs incurred by the CRES provider to correct the unauthorized switch within thirty calendar days of receiving an itemized invoice of the incurred incremental costs.

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## **AMENDED**

### **4901:1-10-22      Electric utility customer billing and payments.**

- (A) This rule applies to electric utility bills that do not include any competitive retail electric service (CRES) provider charges. Requirements for consolidated billing appear in rule 4901:1-10-33 of the Administrative Code.
- (B) Customer bills issued by or for the electric utility shall be accurate, shall be rendered at monthly intervals, and shall contain clear and understandable form and language. Each bill shall state at least the following information:
- (1) The customer's name, billing address, service address, and account number.
  - (2) The electric utility's name and its payment address.
  - (3) The electric utility's twenty-four hour local and toll-free telephone numbers for reporting service emergencies.
  - (4) A statement that customers with billing questions or complaints should call or write the electric utility first. The bill shall list the electric utility's local and toll-free telephone numbers and the address where a question or complaint may be sent.
  - (5) The following text:

"If your complaint is not resolved after you have called your electric utility, or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."

The Ohio consumers' counsel (OCC) represents utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>."
  - (6) The rate schedule, if applicable.
  - (7) Dates of the service period covered by the bill.

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(8) The billing determinants applicable:

- (a) Beginning meter reading(s)
- (b) Ending meter reading(s).
- (c) Demand meter reading(s).
- (d) Multiplier(s).
- (e) Consumption(s) for each pricing period.
- (f) Demand(s).

(9) An identification of estimated bills.

(10) The due date for payment. The due date for residential bills shall not be less than fourteen days from the date of postmark. For residential bills being issued from outside the state of Ohio the due date shall not be less than twenty-one days.

(11) The current billing that reflects the net-metered usage for customer generators, if applicable.

(12) Any late payment charge or gross and net charges, if applicable.

(13) Any unpaid amounts due from previous bills, any customer credits, and the total amount due and payable.

(14) The current balance of the account, if the residential customer is billed according to a budget plan.

(15) The current gas and electric charges separately, if the customer is billed for gas and electric service on the same bill.

(16) If applicable, each charge for ~~non-jurisdictional services~~~~non-tariffed, non-regulated service~~, and the name and toll-free telephone number of each provider of each service.

(17) Any nonrecurring charge.

(18) Any payment(s) or credit(s) applied to the account during the current billing period.

(19) Any applicable percentage of income payment program (PIPP) billing information:

- (a) Current PIPP payment.

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- (b) PIPP payments defaulted (i.e., past due).
- (c) Total PIPP amount due.
- (d) Total account arrearage.
- (20) An explanation of codes and abbreviations used.
- (21) At a minimum, definitions for the following terms, or like terms used by the company, if applicable: customer charge, delivery charge, estimated reading, generation charge, kilowatt hour, and late payment charge.
- (22) If applicable, the name of the CRES provider and a statement that such provider is responsible for billing the supplier charges.
- (23) A numerical representation of the customer's historical consumption during each of the preceding twelve months, with a total and average consumption for such twelve-month period.
- (24) The price-to-compare notice on residential customer bills and a notice that such customers can obtain a written explanation of the price-to-compare from their electric utility.
- (25) Other information required by Ohio law or commission rule or order.

(C) Each electric utility shall publish and maintain an online active bill calculator that shows each and every rate or charge and permits customers to enter their billing determinates to determine the accuracy of their bill.

~~(E)~~ Any new bill format proposed by an electric utility shall be filed with the commission for approval. If an application for sample bill approval is not acted upon within forty-five calendar days, said sample shall be deemed approved on the forty-sixth day after the filing.

~~(E)~~ Each electric utility shall, upon request, provide customers with an updated list of the name and street address/location of the nearest payment center and/or local authorized agent, and alternative methods available for payment of customer bills. If an electric utility accepts payments from customers via authorized agents, the electric utility shall provide signage to the authorized agent with its logo, or other appropriate indicators, that affirm the payment location as an authorized agent of the electric utility. Customers shall not be charged more than two dollars for processing their payments by cash, check, or money order at authorized agent locations.

~~(E)~~ When a customer pays a bill at the electric utility's business office or to an authorized agent of the company, that payment, including any partial payment, shall be immediately credited to the



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customer's account where feasible, and in any event be credited to the customer's account as of the date received at the business office or by the agent. No electric utility shall disconnect service to a customer who pays, to the electric utility or an authorized agent of the electric utility, the total amount due on the account (or an amount agreed upon between the electric utility and the customer to prevent disconnection), by the close of business on the disconnection date listed on the disconnection notice. Payment received by an authorized agent of the electric utility shall constitute receipt of payment by the electric utility.

(~~FG~~) Each electric utility shall establish a policy for its own personnel and for its authorized agents to handle billing disputes, requests for payment arrangements, and payments to prevent disconnection of service. If such matters cannot be handled by an agent authorized to accept payments, the electric utility shall provide customers with its local and toll-free numbers to use at a nearby telephone.

(~~GH~~) Each electric utility shall credit any customer's partial payments in the following order:

- (1) Past due distribution, standard offer generation, and transmission charges.
- (2) Current distribution, standard offer generation, and transmission charges.
- (3) Other past due and current non-regulated charges.

Budget billing payments and payments in full of the undisputed amount related to a bona fide dispute do not constitute partial payments. Payments made on accounts for which there is a bona fide dispute shall be credited to the undisputed portion of the account.

(~~HI~~) Any electric utility wishing to issue billing statements online shall comply with the following requirements:

- (1) A customer shall not be required to use online billing.
- (2) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills and/or customer information online.
- (3) The online billing statement shall include all requirements listed in paragraph (B) of this rule.
- (4) The electric utility shall maintain a secure and encrypted site that is to be accessed only by the customer of record after completing a secure registration process.
- (5) Any fees to accept online payments shall be clearly disclosed in payment window(s).

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(6) Any payment made online shall be treated as a payment made at the electric utility's business office and shall be posted to the account in accordance with paragraph (E) of this rule. The time needed to post the payment to the account shall be clearly stated.

(7) If a customer chooses to use online billing, the electric utility shall continue to make all payment methods available to the customer.

(H) The utility may transfer the unpaid balances of a customer's previously rendered final bills to a subsequent bill for a like service account in the name of that same customer. The transfer of bills is limited to like service, for example, residential to residential, commercial to commercial, gas to gas, and electric to electric. Such transferred final bills, if unpaid will be part of the past due balance of the transferee account and subject to the company's collection and disconnection procedures which are governed by Chapters 4901:1-10 and 4901:1-18 of the Administrative Code. Any transfer of accounts shall not affect the residential customer's right to elect and maintain an extended payment plan for service under rule 4901:1-18-10 of the Administrative Code.

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## **NO CHANGE**

### **4901:1-10-23      Billing adjustments.**

- (A) When an electric utility has undercharged any nonresidential customer as the result of a meter or metering inaccuracy, billing problem, or other continuing problem under the electric utility's control, unless the customer and the electric utility agree otherwise, the maximum portion of the undercharge that may be billed to the customer in any billing month, based upon the appropriate rates, shall be determined by dividing the amount of the undercharge by the number of months of undercharged service. The electric utility shall only bill the customer for the amount of the total undercharge amount rendered in the thirty-six month period immediately prior to the date the company remedies the metering inaccuracy. Each electric utility shall state the total amount to be collected in the first bill under this rule. This rule shall not affect the electric utility's recovery of regular monthly charges.
- (B) Pursuant to section 4933.28 of the Revised Code, the company may only bill the residential customer for the amount of the unmetered electricity rendered in the three hundred sixty-five days immediately prior to the date the company remedies the meter inaccuracy.
- (C) This rule shall not apply to tampering with or unauthorized reconnection of the meter, metering equipment, or electric utility's property which causes meter or metering inaccuracies or no measurement of service.

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## **AMENDED**

### **4901:1-10-24 Customer safeguards and information.**

- (A) Each electric utility shall notify customers annually, by bill insert or other notice, about its summary of customer rights and responsibilities, as prescribed by rule 4901:1-10-12 of the Administrative Code, and how to request a copy from the electric utility.
- (B) Each electric utility shall maintain a listing in each incumbent local exchange carrier's local ~~each local telephone service provider's~~ directory operating in the electric utility's certified territory.
- (C) Customer education and marketing practices.

Each electric utility shall provide informational, promotional, and educational materials that are non-customer specific and explain services, rates, and options to customers. The staff may review and/or request modification of informational, promotional, and educational materials. Such materials, shall include the following information:

- (1) An explanation of the service, its application, and any material exclusions, reservations, restrictions, limitations, modifications, or conditions.
  - (2) If services are bundled, an identification and explanation of service components and associated prices.
  - (3) An identification and explanation of:
    - (a) Any one-time or nonrecurring charge(s) (e.g., penalties and open-ended clauses).
    - (b) Recurring charge(s) (e.g., usage).
  - (4) An explanation of how the customer can access the approximate generation resource mix and environmental disclosure data, as prescribed in rule 4901:1-10-31 of the Administrative Code.
- (D) Unfair and deceptive acts or practices. No electric utility shall commit an unfair or deceptive act or practice in connection with the promotion or provision of service, including an omission of material information. An unfair or deceptive act/practice includes, but is not limited to, the following:

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- (1) An electric utility states to a customer that distribution service will or may be disconnected unless the customer pays any amount due for a non-tariffed or non-regulated service.
- (2) An electric utility charges a customer for a service for which the customer did not make an initial affirmative order. An affirmative order means that a customer or applicant for service must positively elect to subscribe to a service before it is added to the account. Failure to refuse an offered or proposed service is not an affirmative order for the service.

(E) Customer specific information.

- (1) An electric utility shall not disclose a customer's account number without the customer's consent and proof of that consent as delineated in paragraph (E)(4) of this rule, or a court or commission directive ordering disclosure, except for the following purposes:
  - (a) An electric utility's collections and/or credit reporting activities.
  - (b) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.
  - (c) Cooperation with governmental aggregation programs, pursuant to section 4928.20 of the Revised Code.
- (2) An electric utility shall not disclose a customer's social security number without the customer's written consent as delineated in paragraph (E)(4) of this rule, or without a court order, except for the following purposes:
  - (a) Completing a customer credit evaluation.
  - (b) An electric utility's or competitive retail electric service (CRES) provider's collections and/or credit reporting activities.
  - (c) Participation in the home energy assistance program, the emergency home energy assistance program, and programs funded by the universal service fund, pursuant to section 4928.52 of the Revised Code, such as the percentage of income payment plan programs.
- (3) An electric utility shall not disclose residential customer energy usage data that is more granular than the monthly historical consumption data, provided on the customer pre-enrollment list pursuant to paragraph (E) of rule 4901:1-10-29 of the Administrative

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Code, without the customer's consent, or as required for billing purposes, or electronic authorization, or a court or commission directive ordering disclosure.

(4) Customer information release consent form

- (a) Written consent shall be on a separate piece of paper and shall be clearly identified on its face as a release of personal information and all text appearing on the consent form shall be in at least sixteen-point type. The following statement shall appear prominently on the consent form, just prior to the signature, in type darker and larger than the type in surrounding sentences: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the electric utility) to release the information set forth above. By my signature, I freely give (name of the electric utility) permission to release the information designated above." The written consent form for the release of customer energy usage data shall specify the identity of any recipients of the data, type and granularity of the data being collected, and uses for which the data is being collected. Forms requiring a customer to circle or to check off preprinted types of information to be released may not be used.
- (b) Electronic consent shall be verifiable and in a substantially similar format to the written consent in paragraph (E)(4)(a) of this rule. The following statement shall appear prominently: "I realize that under the rules and regulations of the public utilities commission of Ohio, I may refuse to allow (name of the electric utility) to release the information set forth above. By providing my electronic signature, I freely give (name of the electric utility) permission to release the information designated above."

- (5) Nothing in this rule prohibits the commission from accessing records or business activities of an electric utility, as provided for in paragraph (B) of rule 4901:1-10-03 of the Administrative Code.

(F) Customer load pattern information. An electric utility shall:

- (1) Upon request, timely provide twenty-four months of a customer's usage history, payment history, detailed consumption data, if available, and time differentiated price data, if applicable, to the customer without charge.
- (2) Provide generic customer load pattern information, in a universal and user-friendly file format, to other electric service providers on a comparable and nondiscriminatory basis. Load pattern information shall be based upon a minimum of three years of historical customer usage data.

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- (3) Provide customer-specific information to CRES providers on a comparable and nondiscriminatory basis as prescribed in paragraph (E) of rule 4901:1-10-29 of the Administrative Code, unless the customer objects to the disclosure of such information.
- (4) Prior to issuing any eligible-customer lists and at least four times per calendar year, provide all customers clear written notice, in billing statements or other communications, of their right to object to being included on such lists. Such notice shall include instructions for reporting such objection. This notice shall read as follows:

"We are required to include your name, address, ~~and~~ usage information, and other customer specific information as identified on the approved pre-enrollment list displayed on our website and tariffs, on a list of eligible customers that is made available to other competitive retail electric service providers. If you do not wish to be included on this list, please call (electric utility telephone number) or write (electric utility address). If you have previously made a similar election, your name will continue to be excluded from the list without any additional action on your part. If you previously decided not to be included on the list and would like to reverse that decision, please call or write us at the same telephone number and address. An election not to be included on this list will not prevent (electric utility name) from providing your information to governmental aggregators."

In addition, the electric utility may offer its customers the option of contacting the electric utility by electronic means and, if it does so, the electric utility shall add its electronic mail address or web site to the above notice. The categories of customer specific information listed on the pre-enrollment shall be displayed in an easily accessible place on each utility's website for customers to view.

- (5) If a customer objects as provided in paragraphs (F)(3) and (F)(4) of this rule, the electric utility shall not release such information unless and until the customer affirmatively indicates that the information may be released.
- (G) ~~To provide customers with a list of certified CRES providers actively seeking residential customers within the electric utility's service territory, each electric utility shall maintain a link on its website directing customers to the commission's website, energychoiceohio.gov, which offers such information. Each electric utility shall develop, update, and maintain a list of certified CRES providers that are actively seeking residential customers within the electric utility's service territory. Where CRES providers are actively seeking residential customers, the electric utility shall disclose such lists on the electric utility's website, in an unbiased manner, and shall provide such lists to any customer upon request.~~

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## **AMENDED**

### **4901:1-10-26      Annual system improvement plan report.**

- (A) Each electric utility and transmission owner shall report annually regarding its compliance with the minimum service quality, safety, and reliability requirements for noncompetitive retail electric services.
- (B) Annual report. On or before March thirty-first of each year, each electric utility and transmission owner shall file with the commission an annual report for the previous calendar year by the utility's chief executive officer or other senior officer responsible for the service quality, safety, and reliability of the electric utility's and transmission owner's transmission and/or distribution service. The annual report shall include:
- (1) A plan for investment in and improvements to the electric utility's or transmission owner's transmission and distribution facilities/equipment that will ensure high quality, safe, and reliable delivery of energy to customers and will provide the delivery reliability needed for fair and open competition. Each plan shall also contain the estimated cost of implementation and any changes to the plan from the previous annual report. Each plan shall:
    - (a) Cover all of the electric utility's service territory, and shall describe the relevant characteristics of the service territory including the following:
      - (i) ~~The number of m~~Miles of overhead distribution~~lines~~.
      - (ii) ~~The number of m~~Miles of underground distribution~~lines~~.
      - (iii) ~~The number of m~~Miles of overhead transmission~~lines~~.
      - (iv) ~~The number of m~~Miles of underground transmission~~lines~~.
      - (v) Any other notable characteristics.
    - (b) Cover a period of no less than three years following the year in which the report was filed.
    - (c) Provide a timetable for achievement of the plan's goals.
    - (d) List any quality, safety, and reliability complaints the electric utility or transmission owner received during the reporting period from other electric utilities, rural electric



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cooperatives, municipal electric utilities, and competitive retail electric suppliers, and shall report the specific actions the electric utility took to address these complaints.

- (e) For transmission facilities within the commission's jurisdiction, list any electric reliability standards violations, regional transmission operator operating violations, transmission load relief, the top ten congestion facilities by hours of congestion occurring on the electric utility's and/or transmission owner's facilities, and a description of the relationship between the annual system improvement plan and the regional transmission operator's transmission expansion plan.
  - (f) Report all unresolved quality, safety, and reliability complaints and violations as described in paragraphs (B)(1)(d) and (B)(1)(e) of this rule that were carried over from the prior year, along with the reason the complaint or violation was not resolved.
- (2) A report of the electric utility's or transmission owner's implementation of the plan that it filed pursuant to paragraph (B)(1) of this rule for the previous annual reporting period, including an identification of significant deviations from the goals of the previous plan and the reasons for the deviations.
- (3) A report by service territory of the age, current condition, reliability and performance of the electric utility's and/or transmission owner's transmission and distribution facilities in Ohio. (In analyzing and reporting the age of the electric utility's and/or transmission owner's facilities and equipment, the electric utility and/or transmission owner may utilize book depreciation. Statistical estimation and analysis may be used when actual ages and conditions of facilities are not readily available. The use of such techniques shall be disclosed in the report.) The report shall include:
- (a) A qualitative characterization of the condition of the electric utility's and/or transmission owner's system and an explanation of the criteria used in making the qualitative assessment.
  - (b) An overview of the number and substance of customers' safety and reliability complaints for the annual reporting period in each service territory.
  - (c) Each electric utility's or transmission owner's transmission capital and maintenance expenditures as follows:
    - (i) Total expenditures for the past year and the ratio of such expenditures to total transmission investment;

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- (ii) Reliability-specific budgeted vs. actual expenditures for the past year by budget category and total, and an explanation for any variance exceeding ten per cent; and
  - (iii) Budgeted reliability-specific expenditures for the current year by budget category and total.
- (d) Each electric utility's distribution capital and maintenance expenditures as follows:
- (i) Total expenditures for the past year and the ratio of such expenditures to total distribution investment;
  - (ii) Reliability-specific budgeted vs. actual expenditures for the past year by budget category and total, and an explanation for any variance exceeding ten per cent; and
  - (iii) Budgeted reliability-specific expenditures for the current year by budget category and total.
- (e) The average remaining depreciation lives of the electric utility's and/or transmission owner's transmission and distribution facilities, expressed separately by facility type as a percentage of total depreciation lives.
- (f) For each reporting period, provide a list and purpose of current inspection, maintenance, repair, and replacement programs required by paragraph (E) of rule 4901:1-10-27 of the Administrative Code that the electric utility and/or transmission owner's utilizes for quality, safe, and reliable service from its transmission, substation, and distribution facilities and/or equipment. This report shall include the following:
- (i) The goals of each program and whether the electric utility's and/or transmission owner's annual goals for each program were achieved. If the goals were achieved, describe how they were achieved and to what extent, including numerical values and percentages in the description. If the goals were not achieved, describe the problems that prevented the achievement and the level of completion of each program, including numerical values and percentages.
  - (ii) A summary of the electric utility's and/or transmission owner's annual findings as a result of performing each program.
  - (iii) A summary of the remedial activity that has been or will be performed as a result of the program findings, and the actual and estimated completion dates for such remedial activity.

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- (iv) The electric utility's and/or transmission owner's plans and programs to prevent overloading or excessive loading of its transmission and distribution facilities and equipment.
  - (v) The electric utility's and/or transmission owner's actions to remedy overloading or excessive loading of its transmission and distribution facilities and equipment.
  - (vi) An identification of the programs that have been added, deleted, and/or modified from the previous reporting period in accordance with the requirements of paragraph (F) of rule 4901:1-10-27 of the Administrative Code.
- (4) An identification of customer service interruptions that were due solely to the actions or in-actions of another electric utility, regional transmission entity, and/or a competitive retail electric supplier for the annual reporting period and the causes of these interruptions.

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## **AMENDED**

**4901:1-10-27          Inspection, maintenance, repair, and replacement of transmission and distribution facilities (circuits and equipment).**

- (A) This rule applies to the inspection, maintenance, repair, and replacement of utility transmission and distribution system facilities (circuits and equipment). The rebuttable presumption that an electric utility and/or transmission owner is providing adequate service pursuant to paragraph (F) of rule 4901:1-10-02 of the Administrative Code, does not apply to this rule.
- (B) Distribution system performance assessment. For electric distribution circuits, the electric utility shall comply with rule 4901:1-10-11 of the Administrative Code.
- (C) Transmission system performance assessment. Every five years each electric utility and transmission owner shall file with the commission a report setting forth its methodology used to assess the reliability of its transmission circuits. That methodology shall be subject to review and acceptance by the director of the rates and analysis ~~utilities~~ department.
  - (1) Each electric utility or transmission owner shall submit a method to assess circuit reliability based on the total number of sustained outages per circuit per calendar year and other factors proposed by the electric utility, or required by the electric reliability organization (ERO), the regional reliability organization (RRO), or the regional transmission operator, which affect circuit performance, together with supporting justification for that method.
    - (a) If the electric utility and/or transmission owner and the director of the ~~utilities-rates and analysis~~ department can-not agree on a method to assess transmission circuit reliability, the electric utility and/or transmission owner shall apply, within ninety calendar days after the submission of its proposal, to the commission for a hearing and shall file a written report along with documentation supporting its methodology.
    - (b) Revisions to a previously accepted methodology for assessing the reliability of its transmission circuits, shall be submitted for review and acceptance along with supporting justification to the director of the utilities department, no later than ninety calendar days prior to the beginning of the next succeeding calendar year.
  - (2) Each electric utility or transmission owner shall submit a report on electronic media in a format prescribed by the commission on or before March thirty-first of each year, that identifies the

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performance of each transmission circuit for the previous calendar year. Each annual report shall, at a minimum, provide the following information for each transmission circuit:

- (a) The circuit identification number.
- (b) The circuit name (if different from the origin terminus).
- (c) The circuit origin and terminus.
- (d) The circuit voltage level (KV).
- (e) The circuit mileage.
- (f) The circuit in-service date, where available.
- (g) The number of unplanned outages (sustained and momentary if available) and their causes by circuit.
- (h) The substation(s) and/or distribution circuit(s) affected by each of the outages reported for paragraph (C)(2)(g) of this rule, by circuit.
- (i) A description of and the rationale for any remedial action taken or planned to improve circuit performance or for taking no remedial action.
- (j) The start and completion dates of any remedial action taken or planned.
- (k) The applicable ERO standard requirement.
- (l) The applicable ERO standard violation.

(3) The annual report shall be submitted in a form prescribed by the commission or its staff.

(D) Transmission and distribution facilities inspections.

Unless otherwise determined by the commission, each electric utility and transmission owner shall, at a minimum, inspect its electric transmission and distribution facilities (circuits and equipment) to maintain quality, safe, and reliable service on the following scheduled basis:

- (1) Distribution - all distribution circuits and equipment, including above-ground facilities associated with the operation of underground circuits, shall be inspected at least once every five years.

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- (2) Transmission - all transmission circuits and equipment shall be inspected at least once every year.
- (3) Substations - all transmission and distribution substations and equipment shall be inspected twelve times annually, with no inspection interval exceeding forty calendar days between inspections.
- (4) On or before March thirty-first of each year, each electric utility and transmission owner shall submit a report in an electronic medium, in a format prescribed by the commission or its staff, of the electric utility's and/or transmission owner's compliance with the inspection schedule in paragraphs (D)(1) to (D)(3) of this rule for the preceding calendar year. The annual report of inspection compliance shall include:
  - (a) A listing of distribution circuits inspected during the year and, for each listed circuit, the date(s) such inspection was performed.
  - (b) A listing of transmission circuits inspected during the year and, for each listed circuit, the date(s) such inspections were performed.
  - (c) ~~For each substation,~~ A listing of all substations and the date of each inspection during the year.
  - (d) The date(s) when any circuits or substations were added or retired during the reporting year.
- (E) Transmission and distribution inspection, maintenance, repair, and replacement programs.
  - (1) Each electric utility and transmission owner shall establish, maintain, and comply with written programs, policies, procedures, and schedules for the inspection, maintenance, repair, and replacement of its transmission and distribution circuits and equipment. These programs shall establish preventative requirements for the electric utility to maintain safe and reliable service. Programs shall include, but are not limited to, the following facilities:
    - (a) Poles and towers.
    - (b) Circuit and line inspections.
    - (c) Primary enclosures (e.g., pad-mounted transformers and pad-mounted switch gear) and secondary enclosures (e.g., pedestals and handholes).
    - (d) Line reclosers.

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(e) Line capacitors.

(f) Right-of-way vegetation control.

(g) Substations.

(2) Each electric utility shall file its inspection, maintenance, repair, and replacement programs, instituted pursuant to paragraph (E)(1) of this rule, with the commission, and simultaneously provide a copy of the filing to the director of the service monitoring and enforcement department. The electric utility's filing shall include supporting justification and rationale based upon generally accepted industry practices and procedures .,

(3) If a filing to establish the electric utility's inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five calendar days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.

(4) Each electric utility and transmission owner shall maintain records sufficient to demonstrate compliance with its transmission and distribution facilities inspection, maintenance, repair, and replacement programs as required by this rule. Each electric utility and transmission owner shall record all deficiencies revealed by inspections or tests and all actions taken to correct those deficiencies. Lines and equipment with recorded defects that could reasonably be expected to endanger life or property shall be promptly repaired, disconnected, or isolated. All remaining deficiencies shall be corrected by the end of the calendar year following the year the completion of the inspection or testing that originally revealed such deficiencies was completed. The electric utility shall document all deficiencies that are not corrected within the designated time, including the reason for not taking corrective action.

(F) Inspection, maintenance, repair, and replacement program revisions and amendments.

(1) All revisions or amendments (including modification to a current program, addition of a new program, or elimination of an existing program) requested by an electric utility shall be filed with the commission as outlined in paragraph (E)(2) of this rule.

(2) If a filing to revise or amend the electric utility's inspection, maintenance, repair, and replacement programs is not acted upon by the commission within forty-five days after it is filed, the inspection, maintenance, repair, and replacement programs shall be deemed approved on the forty-sixth day after filing.

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## **AMENDED**

### **4901:1-10-29      Coordination with competitive retail electric service (CRES) providers.**

- (A) Each electric utility shall coordinate with CRES providers to promote nondiscriminatory access to electric services, to ensure timely enrollment with CRES providers to maintain a customer's electric service, and to timely and correctly switch the customer's electric service between CRES providers.
- (B) Each electric utility shall adopt a supplier tariff containing standardized requirements to the extent such standardization is feasible. At a minimum, such tariff shall include requirements for imbalances, load profiles, scheduling, billing (between the electric utility and CRES provider), customer billing (options, collection, and application of customer payments), metering, retail settlements, scheduling coordinators, losses, customer information (procedures for disclosing load profile, account information, and payment history), dispute resolution processes (between the electric utility and CRES provider), standard operating rules, performance incentives and standards, creditworthiness and default security, supplier agreement, electronic data interchange protocols, CRES provider enrollment with the electric utility, service termination and disconnection (of end-user customer), certified CRES provider lists, return to standard offer, customer enrollment and switching, supplier training, and supplier proof of certification.
- (C) An electric utility shall execute with each CRES provider a supplier agreement to operate under the terms of the supplier tariff. At minimum, the supplier agreement shall include representations and warranties, indemnification, limitations on liability, default (breach), remedies, force majeure, form/format of scheduling coordinators, commencement, and term.
- (D) The electric utility and CRES provider shall execute a standardized trading partner agreement, as required by the standard electronic transmission protocols.
- (E) Pre-enrollment. Electric utilities shall make eligible-customer lists available to certified CRES providers in spreadsheet, word processing, or an electronic non-image-based format, with formula intact, compatible with personal computers. Such lists shall be updated quarterly. The eligible customer list shall, at a minimum, contain customer name, service and mailing address, rate schedule (class and sub-class), applicable riders, load profile reference category, meter type, interval meter data indicator, net metering indicator, budget bill indicator, PIPP plus indicator, meter read date or schedule, and historical monthly customer energy usage data (actual energy usage plus any applicable demand) for each of the most recent twelve months.



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(F) Customer enrollment.

- (1) Within two business days after confirming the validated electronic data file for a CRES provider's customer enrollment request, the electric utility shall mail or email with an electronic notification of receipt, the customer a competitively neutral confirmation notice stating:
  - (a) That the electric utility has received a request to enroll the customer for competitive electric service with the named CRES provider.
  - (b) The date such service is expected to begin.
  - (c) That residential and small commercial customers have seven days from the postmark date on the notice to contact the electric utility to rescind the enrollment request or notify the electric utility that the change of service provider was not requested by the customer.
  - (d) The electric utility's toll-free telephone number.
- (2) Such notice shall not be used as an opportunity for the electric utility to convince customers to remain on or return to the electric utility's standard offer service.
- (3) Each electric utility shall have a twenty-four hour per day capability for accepting CRES residential and small commercial customer enrollment rescission by telephone.
- (4) When a residential or small commercial customer calls the electric utility to rescind enrollment with a CRES provider, the electric utility shall provide the customer a unique cancellation number.
- (5) Within two business days after receiving a customer's request to rescind enrollment with a CRES provider, the electric utility shall initiate such rescission and mail or email with an electronic notification of receipt, the customer confirmation that such action has been taken.

(G) Customer billing.

- (1) Electric utilities shall make consolidated billing available to CRES providers and shall not take any actions to inhibit or prohibit dual billing by CRES providers.
- (2) Consolidated billing shall include budget billing of utility and CRES charges as a customer-elected option.

(H) Customers returning to standard offer.

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- (1) Any customer returning to the standard offer due to a CRES provider's default, abandonment, slamming, certification rescission of a CRES provider, or the end of their contract term with a CRES provider, will not be liable for any costs or penalties associated with the customer's return to the standard offer.
- (2) Within two business days after confirming the validated electronic data file for a CRES provider's customer-drop request, the electric utility shall mail or email with an electronic notification of receipt, the customer a notice stating:
  - (a) That the electric utility has received a request to drop the customer from competitive electric service with the named CRES provider.
  - (b) The deadline date for the electric utility to receive a CRES provider's request to enroll the customer.
  - (c) That the electric utility is available to address any questions the customer may have.
  - (d) The electric utility's local and toll-free telephone number.
- (I) Percentage of income payment plan (PIPP) customers will be coordinated exclusively by the Ohio ~~development services agency department of development~~ pursuant to section 4928.54 of the Revised Code.
  - (1) Electric utilities shall not switch PIPP and graduate PIPP program customers to CRES providers.
  - (2) Customers pending enrollment with a CRES provider who subsequently become approved for PIPP or the electric utility's arrearage crediting program shall not be switched to the CRES provider.
  - (3) Electric utility customers who have switched to a CRES provider and subsequently become approved for the electric utility's graduate PIPP program shall be transferred to the electric utility's standard offer service at the next regularly scheduled meter read date after the electric utility enrolls the customer in the program.
  - (4) ~~Until the Ohio department of development has in place a mechanism for the administration and operation of the low income customer assistance programs, e~~Customers who have switched to a CRES provider and subsequently become approved for PIPP shall be dropped by the electric utility to standard offer service at the next regularly scheduled meter read date after the electric utility receives notice of the customer's participation in PIPP. The electric utility shall notify the affected CRES provider within ten business days of the customer's transfer to

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a new electric service provider to participate in PIPP. Any switching fees shall be added to the customer's arrearages, not current charges.

- (5) When the host electric utility is not purchasing the receivables of the affected CRES provider, the electric utility shall submit to Ohio development services agency~~department of development~~, on behalf of the affected CRES provider(s), the pre-PIPP arrearages of customers transferred to the PIPP program.
- (6) The host electric utility shall transfer the pre-PIPP arrearages received from the Ohio development- services agency~~department of development~~, on behalf of the affected CRES provider, to the appropriate CRES provider within ten business days after receipt from the Ohio department of development.

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## **NO CHANGE**

**4901:1-10-30      Failures to comply with the rules or commission orders.**

- (A) Any electric utility or CRES provider that fails to comply with the rules and standards in this chapter, or with any commission order, direction, or requirement promulgated thereunder, may be subject to any and all remedies available under the law, including but not limited to the following:
  - (1) Forfeiture to the state of not more than ten thousand dollars for each such failure, with each day's continuance of the violation being a separate offense.
  - (2) Corrective action to effectuate compliance.
  - (3) Restitution or damages to the customer/consumer.
- (B) Enforcement of any rule in this chapter or commission order, direction or requirement promulgated thereunder, will be conducted in accordance with Chapter 4901:1-23 of the Administrative Code.

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## **NO CHANGE**

### **4901:1-10-31 Environmental disclosure.**

- (A) This rule establishes a process by which customers are assured of receiving information, in a timely and consistent manner, concerning the approximate retail generation resource mix and environmental characteristics associated with electric power offered in Ohio's competitive marketplace.
- (B) This rule applies to all electric utilities providing a standard offer for retail electric generation service.
- (C) Determination of environmental disclosure data.

- (1) Contents of environmental disclosure data.

- (a) Approximate generation resource mix.

Each electric utility shall specifically identify each of the following generation sources used in the generation of the power that is made available under its standard offer: biomass power, coal-fired power, hydro power, natural gas-fired power, nuclear power, oil-fired power, other sources, solar power, and wind power.

The electric utility shall exercise all reasonable efforts to identify the power source or resource used to generate the power in question. The electric utilities shall maintain documentation sufficient to demonstrate the steps taken to make such identification.

- (b) Environmental characteristics.

Electric utilities shall report the environmental characteristics typically associated with the generation resources used to generate the power that is made available under their respective standard offers.

Electric utilities shall also report the air emissions of nitrogen oxides, sulfur dioxide, and carbon dioxide associated with the generation of power being offered under their respective standard offers.

In addition, electric utilities shall report the generation of high- and low-level radioactive waste associated with the power being offered under their standard offers.

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(2) Methodology for determining environmental disclosure data.

- (a) Any new electric utility shall submit to the staff, at least thirty days prior to commencing operations, its proposed methodology for determining its environmental disclosure data. Such submittal shall detail the proposed methodology for completing the required annual projection, as well as the methodology for determining and compiling the required quarterly actual data.
- (b) The actual environmental disclosure data, to be provided quarterly, shall be verifiable. Each electric utility shall maintain documentation sufficient to demonstrate the accuracy of the actual environmental disclosure data.
- (c) When calculating the generation resource mix, the electric utility shall assume that purchased energy has the same generation resource mix as the regional generation resource mix for the twelve month period of June first to May thirty-first, as provided by the electric utility's regional transmission organization or independent system operator.

(3) Each electric utility shall submit to staff for its review and approval a proposal for incorporating the use of renewable energy credits (RECs) into its annual and quarterly environmental disclosures. The electric utility shall provide statements, when applicable:

- (a) That the electric utility sold RECs from one of its electric generating facilities.
- (b) That the electric utility purchased RECs as a means of complying, in part or whole, with a renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.
- (c) Whether the electric utility complied with the renewable energy resource benchmark under the state's alternative energy portfolio standard requirements.

(4) Timing for disclosing environmental disclosure data.

- (a) Electric utilities shall annually project their environmental disclosure data for at least the subsequent calendar year.
- (b) Electric utilities shall also complete no less than quarterly comparisons of actual to projected environmental disclosure data.
- (c) Below is the schedule applicable to the environmental disclosure process.

January - disclosure of projected environmental disclosure data for current calendar year.

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March - disclosure of actual environmental disclosure data for the prior calendar year, compared to the projected environmental disclosure data from prior calendar year.

June - disclosure of actual environmental disclosure data for January through March of current year, compared to projected data for current calendar year.

September - disclosure of actual environmental disclosure data for January to June of current year, compared to projected data for current calendar year.

December - disclosure of actual environmental disclosure data for January through September of current year, compared to projected data for current calendar year.

(D) Environmental disclosure to the commission.

(1) Content.

Each customer shall receive environmental disclosure data, as detailed in paragraph (C) of this rule.

(2) Format.

The environmental disclosure data shall be provided in a standardized format in order to facilitate comparisons by customers. This data shall be disclosed in not less than a ten-point font. The presentation of this data shall comply with each of the following requirements:

- (a) A pie chart shall be provided which illustrates on a percentage basis the various generation resources, as detailed in paragraph (C)(1)(a) of this rule, used in the generation of power that is made available under the standard offer.

The percentages shall be rounded to the nearest one-half per cent. The pie chart shall not include colors, but shall include the use of shading and labels to more clearly communicate the information.

To the extent the patterns set forth in appendices A and B to this rule cannot be duplicated exactly, electric utilities shall exercise reasonable efforts to simulate the required shading to the extent possible.

- (b) A table shall be provided which illustrates the typical environmental characteristics associated with the generation resource categories detailed in paragraph (C)(1)(a) of this rule.

The general categories and assumptions to be depicted in the table are as follows:

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Biomass power - results in air emissions and solid waste.

Coal-fired power - results in air emissions and solid waste.

Hydro power - results in wildlife impacts.

Natural gas-fired power - results in air emissions and solid waste.

Nuclear power - results in radioactive waste.

Oil-fired power - results in air emissions and solid waste.

Other sources - results in unknown impacts.

Solar power - results in no significant impacts.

Wind power - results in wildlife impacts.

- (c) The product-specific air emissions shall be presented in a bar chart, along with a regional average emission reference. The product-specific emission rates shall appear as a percentage of the average regional emission rate for each of the three types of air emissions. Percentages shall be calculated from comparison of product-specific and average regional emission rates on a basis of pounds emitted per megawatt hour.
- (d) The figures reflecting the generation of radioactive wastes shall be presented in a table. High-level radioactive waste shall be reported in pounds per one thousand kilowatt hours (kWh), while low-level radioactive waste is to be reported in cubic feet per one thousand kWh. Any radioactive waste greater than zero but less than ".0001" shall be depicted as "<0.0001."

For use in the implementation of this rule, the following definitions shall apply:

High-level radioactive waste - means nuclear fuel that has been removed from a nuclear reactor. Low-level radioactive waste - means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(E)(2) of the "Atomic Energy Act of 1954," 68 Stat. 921, 42 U.S.C. 2014(e)(2), as amended by the Price-Anderson Amendments Act of 2005, 119 Stat. 779.

- (e) The annual projection of approximate generation resource mix and environmental characteristics shall appear as depicted in appendix A to this rule. The regional average



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data, if available, will be updated by the commission by December first of each year or as conditions warrant.

The quarterly comparisons of actual environmental disclosure data to projected environmental disclosure data, comprised of data specific to the electric utility's standard offer, shall appear as depicted in appendix B to this rule.

- (f) Each electric utility shall maintain records detailing the magnitude of each environmental characteristic associated with the generation resource<sup>3s</sup>. Such details shall be provided to customers and staff upon request. Such details may be included on an electric utility's website.
- (g) The electric utility may include other information that it feels is relevant to the required environmental disclosure data, provided this additional information is distinctly separated from the required information. The electric utility shall maintain sufficient documentation to permit verification of the accuracy of any additional information that is disclosed.

(3) Timing.

(a) Annual projection.

Consistent with the schedule presented in paragraph (C)(4) of this rule and the format depicted by appendix A of this rule, the most recent projection of environmental disclosure data shall be provided to each customer of the standard offer for generation service via a link to the EDU's website or the PUCO environmental disclosure information for consumers website or, at the request of the customer, a hardcopy of the data shall be provided at no cost to the customer.

(b) Quarterly comparisons of actual to projected environmental disclosure data.

The comparison of actual to projected environmental disclosure data shall be provided to customers on a quarterly basis consistent with both the schedule presented in paragraph (C)(4) of this rule and the format as depicted by appendix B to this rule.

These items will be disclosed to customers via a link to the EDU's website or the PUCO environmental disclosure information for consumers website or, at the request of the customer, a hardcopy of the data shall be provided at no cost to the customer.

(E) Environmental disclosure to the commission.

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Each electric utility shall submit its annual projection and quarterly comparisons of environmental disclosure data to the deputy director of the utilities department or their designee consistent with the schedule presented in paragraph (C)(4) of this rule. The information provided to the staff shall be identical in content and format to that provided to customers.

- (F) The generation resource mix disclosed pursuant to this rule should not be used as an indicator of an electric utility's compliance with section 4928.64 of the Revised Code.

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## **AMENDED**

### **4901:1-10-32 Cooperation with certified governmental aggregators.**

- (A) Each electric utility shall cooperate with governmental aggregators to facilitate the proper formation and functioning of governmental aggregations. Upon the request of a certified governmental aggregator or certified electric services company under contract with the governmental aggregator, the electric utility shall provide for all customers residing within the governmental aggregator's boundaries, including those customers who have opted off the pre-enrollment list, the following information:
- (1) An updated list of names, account numbers, service addresses, billing addresses, rate codes, percentage of income payment plan codes, load data, and other related customer information, consistent with the information that is provided to other electric services companies, must be available in spreadsheet, word processing, or an electronic non-image-based format, with formulas intact, compatible with personal computers..
  - (2) An identification of customers who are currently in contract with an electric services company or in a special agreement with the electric utility.
  - (3) On a best efforts basis, an identification of mercantile customers.
- (B) Each electric utility shall provide such customer information list to the governmental aggregator, or the electric services company under contract with the governmental aggregator, at no charge.
- (C) Each electric utility shall publish charges and/or fees for services and information provided to governmental aggregators in an approved tariff filed with the commission.
- (D) Each CRES provider that serves a government aggregation shall identify its customers using a government aggregation code as provided by the utility at the time of the EDU enrollment and/or change request.
- (D) Unless a customer notifies the electric utility of the customer's intent not to join a governmental aggregation by responding to the confirmation notice or providing some other notice as provided by the electric utility's tariffs, the electric utility shall switch customer accounts to or from a governmental aggregation under the same processes and time frames provided in published tariffs for switching other customer accounts. A switching fee shall not be assessed to customer accounts that switch to or from a governmental aggregation.

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- (E) Pursuant to division (I) of section 4928.20 of the Revised Code, if the electric utility establishes a surcharge under section 4928.144 of the Revised Code, the electric utility shall charge customers that are part of a governmental aggregation only a portion of such surcharge that is proportionate to the benefits that the electric load centers within the jurisdiction of the governmental aggregation as a group receive as determined by the commission.
- (F) Each electric utility shall cooperate with governmental aggregators to determine the amount of any surcharge that will be assessed to customers that are part of a governmental aggregation pursuant to division (I) of section 4928.20 of the Revised Code.
- (G) If a governmental aggregator notifies the commission of its election to not receive standby service from the electric utility that is operating under an approved electric security plan during the governmental aggregation program, the electric utility shall not charge any customer that is part of that governmental aggregation for standby service. However, the electric utility shall charge any customer that returns to the electric utility for retail electric service during the governmental aggregation program the market price of power incurred by the electric utility to serve that customer plus any amount attributable to the electric utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve that customer, unless that customer becomes ineligible pursuant to paragraph (E)(1)(a) or (E)(1)(g) of rule 4901:1-21-17 of the Administrative Code, or that customer moves within the aggregation boundaries where the electric utility considers the customer that is moving to be a new customer, or the commission otherwise terminates the electric utility's electric security plan in effect during the governmental aggregation program.

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**AMENDED**

**4901:1-10-33 Consolidated billing requirements.**

- (A) This rule applies to an electric utility that issues customers a consolidated electric bill that includes both electric utility and competitive retail electric service (CRES) provider charges for electric services. Nothing in this rule affects the obligations of the electric utility to provide disconnection notices. An electric utility cannot discriminate or unduly restrict a customer's CRES provider from including non-jurisdictional charges on a consolidated electric bill.
- (B) A supplier agreement between an electric utility and a CRES provider must provide that if the electric utility collects customer payments on behalf of the CRES provider, the customer's liability to the CRES provider ceases to the extent of a payment made and applicable to the customer's CRES provider account.
- (C) Consolidated bills shall be accurate, shall be rendered at monthly intervals, and shall contain clear and understandable form and language. All consolidated customer bills issued by or on behalf of an electric utility and a CRES provider must include at least the following information:
- (1) The customer's name, billing address, and service address.
  - (2) The electric utility's twenty-four hour, local and toll-free telephone numbers for reporting service emergencies.
  - (3) The dates of the service period covered by the bill.
  - (4) Current electric charges, separated from gas charges, if these charges appear on the same bill, but only to the extent that the biller provides both electric and gas services.
  - (5) Applicable billing determinants: beginning meter read, ending meter read, demand meter read, multipliers, consumption, and demand.
  - (6) Identification of estimated bills.
  - (7) Any non-recurring charge(s).
  - (8) Net-metered usage for customer generators, if applicable.

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(9) Each charge for— ~~non-jurisdictional servicesnon-tariffed and/or non-regulated service or product~~, if applicable, and the name and toll-free number of each provider of such service(s).

(10) Amount due for previous billing period.

(11) Total payments, late payment charges or gross/net charges, and total credits applied during the billing period.

(12) Total consolidated amount due and payable, or, if applicable, the total consolidated budget bill amount.

(13) Due date for payment to keep the account current. The due date shall not be less than fourteen days from the date of postmark. For residential bills being issued from outside the state of Ohio the due date shall be no less than twenty-one days.

(14) Name and address of the electric utility to which payments should be made.

(15) The following notice:

"If your complaint is not resolved after you have called your electric supplier and/or your electric utility, or for general utility information, residential and business customers may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service).

The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.pickocc.org>."

(16) An explanation of codes and abbreviations used.

(17) At a minimum, definitions for the following terms, or like terms used by the company, if applicable: customer charge, delivery charge, estimated reading, generation charge, kilowatt hour (kWh), and late payment charge.

(18) The price-to-compare for residential bills and a notice that such customers can obtain a written explanation of the price-to-compare from their electric utility.

(D) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the electric utility, at least the following information:

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- (1) Electric utility account number.
  - (2) Applicable rate schedule.
  - (3) Numerical statement of the customer's historical consumption for each of the preceding twelve months, and both the total and average consumption for such twelve-month period.
  - (4) Specific tariffed charges to the extent applicable: customer charge, delivery charge, and other conceptually similar tariffed charges.
  - (5) If the customer is on a budget plan with the electric utility only, the monthly budget amount and current balance of electric utility account.
  - (6) Current charges.
  - (7) The electric utility's local and toll-free telephone numbers and address for questions and complaints.
- (E) In addition to the information required pursuant to paragraph (C) of this rule, each consolidated bill issued must include, in that portion of the bill which details the charges from the CRES provider, at least the following information:
- (1) Customer's CRES account number, if different from the electric utility account number.
  - (2) To the extent applicable, itemization for each charge including, for fixed-price offers, the unit price per kWh for competitive service and, for all other offers for electric generation service, an explanation of how the rate is derived, as well as any other information the customer would need to recalculate the bill for accuracy.
  - (3) If the customer is on a budget plan with the CRES provider only, the monthly budget amount and the current balance of the CRES account.
  - (4) Current charges.
  - (5) A highlighted notice of any change in rates, terms, or conditions appearing on the first two consecutive bills following the occurrence of any such changes and a clear explanation of each change.
- (F) Consolidated bill format. Any new consolidated bill format proposed by an electric utility shall be filed with the commission for approval. If an application for a consolidated bill format is not acted upon by the commission within forty-five calendar days after it is filed, the consolidated bill format shall be deemed approved on the forty-sixth day after filing.

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(G) Transfer of customer billing information.

- (1) The non-billing CRES provider shall furnish the applicable required bill content information to the billing party in a timely manner and in a mutually agreed upon electronic format for inclusion in the consolidated customer bill.
- (2) The billing electric utility shall include in the consolidated bill all required bill content information furnished by the non-billing CRES provider.
- (3) An entity ordered by the commission to provide any bill content, message, insert, or notice remains responsible to provide such information to its customers, although the information may be provided through the consolidated bill.

(H) Partial payment priority.

- (1) A customer's partial payment shall be credited in the following order:
  - (a) Billed and past due CRES provider charges, or, if applicable, CRES provider payment arrangement or past due CRES provider budget billing.
  - (b) Billed and past due electric utility distribution, standard offer generation, and transmission charges or, if applicable, electric utility payment arrangement or past due electric utility budget billing.
  - (c) Billed and due current electric utility distribution and transmission charges or current electric utility budget billing.
  - (d) Billed and due current CRES provider charges or current CRES provider budget billing.
  - (e) Other past due and current non-regulated charges, excluding CRES charges.
- (2) Exceptions to the partial payment priority.
  - (a) Payments in full of the undisputed amount related to a bona fide dispute do not constitute partial payments. Payments made on accounts for which there is a bona fide dispute shall be credited to the undisputed portion of the account.
  - (b) If a customer pays an agreed-upon electric utility and/or CRES budget payment amount, then that payment shall be considered payment in full for the current bill.



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- (I) Upon the customer's switch from a CRES provider, the billing party shall identify for the customer and state on the bill the date after which the billing party will no longer remit payments to the previous CRES provider and include any outstanding balance due the previous CRES provider.
- (J) Any electric utility wishing to issue consolidated billing statements online shall follow the listed guidelines:
- (1) A customer shall not be required to use online billing.
  - (2) No enrollment or usage fees shall be assessed to a customer who chooses to receive bills and/or customer information online.
  - (3) The online billing statement shall include all requirements listed in paragraphs (C), (D), and (E) of this rule.
  - (4) The electric utility shall maintain a secure and encrypted site that is to be accessed only by the customer of record after completing a secure registration process.
  - (5) Any fees to accept online payments shall be clearly disclosed in payment window(s).
  - (6) Any payment made online shall be ~~treated as a payment made at the electric utility's business office and shall be~~ posted to the customer's account in accordance with paragraph (E) of rule 4901:1-10-22 of the Administrative Code. The time needed to post the payment to the customer's account shall be clearly stated.
  - (7) If a customer chooses to use online billing, the customer shall not be restricted to making payments online in the future. All payment methods shall continue to be available to the customer.

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## **NO CHANGE**

### **4901:1-10-34 Compliance with PURPA.**

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Day-ahead energy market" means the day-ahead hourly forward market in which participants offer to sell and bid to buy energy.
- (2) "Locational marginal price" means the hourly integrated market clearing price for energy at the location the energy is delivered or received.
- (3) "PURPA" means the Public Utility Regulatory Policies Act of 1978, as amended by the Energy Policy Act of 2005, at 16 U.S.C.S. Section 824a-3.
- (4) "Qualifying facility" means a small power producer and/or cogenerator that meets the criteria specified by the federal energy regulatory commission in 18 C.F.R. Sections 292.203(a) and (b).
- (5) "RTO/ISO" means the regional transmission organization or independent system operator.

(B) The purpose of this rule is to implement a standard market-based rate for electricity transactions between EDUs and qualifying facilities as provided by PURPA, specifically for small power production facilities and cogeneration facilities.

(C) Except to the extent consistent with the voluntary negotiated agreement pursuant to paragraph (I) of rule 4901:1-10-34 of the Administrative Code, the rates paid by each EDU in Ohio to purchase energy from qualifying facilities that have a net capacity of twenty megawatts or less shall be set in accordance with paragraph (L) of rule 4901:1-10-34 of the Administrative Code.

(D) An EDU's qualifying facility energy purchase obligation shall not be abrogated by the establishment of a power procurement auction mechanism within the EDU's standard service offer supply framework. The energy provided to the EDU by a qualifying facility supplier shall not be included as part of the product being offered through a competitive auction process.

(E) All qualifying facilities must operate their interconnected facilities pursuant to the operating requirements of the RTO/ISO and in accordance with the EDU's specifications for interconnection and parallel operation.

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- (F) All qualifying facilities interconnecting at the distribution level must comply with the guideless set forth in Chapter 4901:1-22 of the Administrative Code, as well as the standard interconnection agreement by the EDU.
- (G) All qualifying facilities interconnected at the transmission level must comply with the RTO/ISO's policies and procedures for interconnection, including interconnection procedures for small generators.
- (H) Nothing in this rule shall affect, modify, or amend the terms and conditions of any existing qualifying facility's contract with an EDU.
- (I) A qualifying facility may elect to execute a negotiated contract with the EDU instead of selling the electrical output of the qualifying facility at the standard market-based rate.
- (J) The terms of the contract may take into account, among other factors, a utility's system costs, contract duration, qualifying facility availability during daily or system peaks, whether the utility avoids costs from the daily or system peaks, and costs or savings from line losses. Any such contract shall be subject to approval by the commission within one hundred twenty days of its filing with the commission.
- (K) The EDU or the qualifying facility may seek alternative dispute resolution of any disputes which may arise out of the EDU tariffs filed under this chapter, in accordance with Chapter 4901:1-26 of the Administrative Code.
- (L) Energy payments to qualifying facilities shall be based on the locational marginal price at the RTO/ISO's pricing node that is closest to the qualifying facility's points of injection, or at a relevant trading hub or zone.
- (M) The EDUs shall file a report in accordance with the market monitoring rules set forth in rule 4901:1-25-02 of the Administrative Code, detailing the qualifying facility activity in the EDU's service territory that includes the following:
  - (1) The name and address of each owner of a qualifying facility.
  - (2) The address of the location of each qualifying facility.
  - (3) A brief description of the type of each qualifying facility.
  - (4) The date of installation and the on-line date of each qualifying facility.
  - (5) The design capacity of each qualifying facility.

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- (6) A discussion identifying any qualifying facility that was denied interconnection by the EDU, including a statement of reasons for such denial.

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## **NO CHANGE**

### **4901:1-10-35 Disclosures of renewable energy resource, energy efficiency, and peak demand reduction compliance costs.**

(A) For purposes of this rule, the following definitions shall apply:

- (1) "Energy efficiency" has the meaning set forth in paragraph (N) of rule 4901:1-39-01 of the Administrative Code.
- (2) "Renewable energy resource" has the meaning set forth in division (A)(37) of section 4928.01 of the Revised Code.

(B) Each electric distribution utility (EDU) shall list on all customer bills sent by the EDU, the individual customer cost of compliance for paragraphs (B)(1), (B)(2), and (B)(3) of this rule for the applicable billing period. Consolidated bills set by the EDU, which include supplier charges, shall include the EDU's individual customer cost of compliance for paragraphs (B)(1), (B)(2) and (B)(3) of this rule for the applicable billing period.

(1) The renewable energy resource requirement under section 4928.64 of the Revised Code. This cost shall be calculated as the sum of the following:

- (a) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio solar and other solar renewable energy credit (REC) costs for EDUs as reported in the commission's most recent compliance report provided to the general assembly; and
- (b) The customer's usage in megawatt-hours for the applicable billing period, multiplied by the statutory non-solar percentage requirement pursuant to division (B)(2) of section 4928.64 of the Revised Code for the year in which the bill is issued, multiplied by the average of the Ohio non-solar and other non-solar REC costs for EDUs as reported by the commission's most recent compliance report provided to the general assembly. The statutory non-solar requirement shall equal the total statutory renewable requirement net of the solar requirement.
- (c) In the event that the commission's compliance report provided to the general assembly does not include separate REC costs for Ohio and other resources, the EDU solar and EDU

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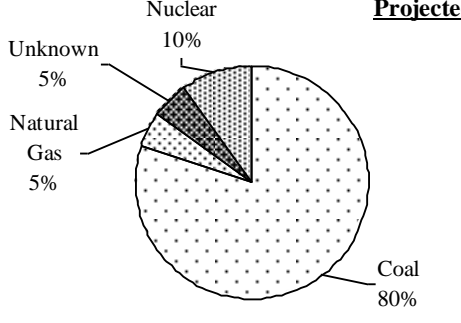
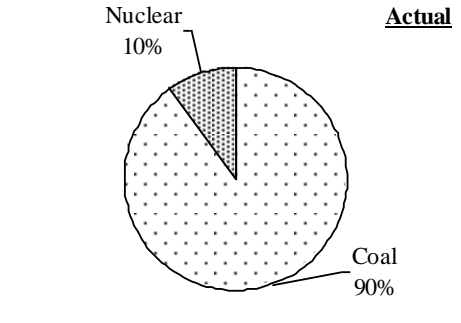
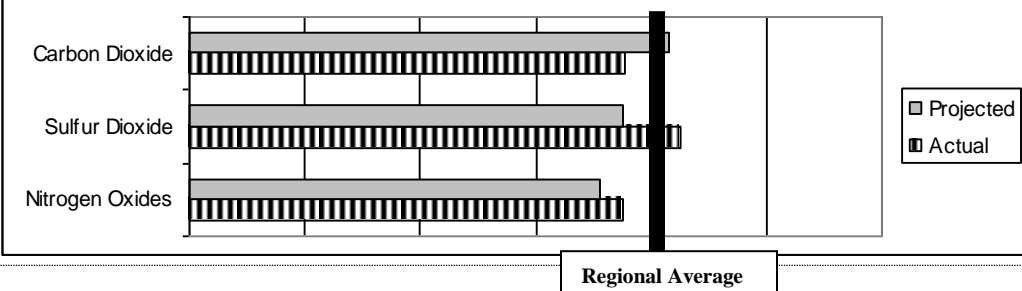
non-solar REC costs as presented in the report should be inserted into the calculation where applicable.

- (2) The energy efficiency savings requirements under section 4928.66 of the Revised Code. This cost shall be calculated as follows:
  - (a) The customer's usage in kilowatt-hours for the applicable billing period multiplied by the currently effective energy efficiency/peak demand reduction rider that is applicable to the customer, exclusive of any amounts related to collection of lost distribution revenue.
  - (b) The amount from paragraph (B)(2)(a) of this rule shall be multiplied by the proportion of the energy efficiency/peak demand reduction rider that is associated with energy efficiency savings requirement compliance costs. For purposes of calculating this proportion, all costs represented in the energy efficiency/peak demand reduction rider shall be allocated either to energy efficiency requirements compliance or peak demand reduction requirements compliance. Alternatively, the EDU may multiply the amount from paragraph (B)(2)(a) of this rule by eighty per cent.
- (3) The peak demand reduction requirements under section 4928.66 of the Revised Code. This cost shall be calculated as follows:
  - (a) The customer's usage in kilowatt-hours for the applicable billing period shall be multiplied by the currently effective energy efficiency/peak demand reduction rider that is applicable to the customer, exclusive of any amounts related to collection of lost distribution revenue.
  - (b) The amount from paragraph (B)(3)(a) of this rule shall be multiplied by the proportion of the energy efficiency/peak demand reduction requirement rider that is associated with peak demand reduction requirements compliance costs. For the purpose of calculating this proportion, all costs represented in the energy efficiency/peak demand reduction rider shall be allocated either to the energy efficiency requirements compliance or peak demand reduction requirements compliance. Alternatively, the EDU may multiply the amount from paragraph (B)(3)(a) of this rule by twenty per cent.
- (4) Each of these costs shall be listed on each customer's monthly bill as a distinct line item.

**4901:1-10-31**  
**Appendix A**

<b>Environmental Disclosure Information</b>								
<b>Company Name</b>								
<b>Projected Data for the XXXX Calendar Year</b>								
<b>Generation Resource Mix -</b>  <a href="#">A comparison between the sources of generation used to produce this product and the historic regional average supply mix.</a>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <b>Supplier's Product</b>  </div> <div style="text-align: center;"> <b>Regional</b>  </div> </div>							
<b>Environmental Characteristics -</b>  <a href="#">A description of the characteristics associated with each possible generation resource.</a>	<a href="#">Biomass Power</a>	<a href="#">Air Emissions and Solid Waste</a>						
	<a href="#">Coal Power</a>	<a href="#">Air Emissions and Solid Waste</a>						
	<a href="#">Hydro Power</a>	<a href="#">Wildlife Impacts</a>						
	<a href="#">Natural Gas Power</a>	<a href="#">Air Emissions and Solid Waste</a>						
	<a href="#">Nuclear Power</a>	<a href="#">Radioactive Waste</a>						
	<a href="#">Oil Power</a>	<a href="#">Air Emissions and Solid Waste</a>						
	<a href="#">Other Sources</a>	<a href="#">Unknown Impacts</a>						
	<a href="#">Solar Power</a>	<a href="#">No Significant Impacts</a>						
	<a href="#">Unknown Purchased Resources</a>	<a href="#">Unknown Impacts</a>						
	<a href="#">Wind Power</a>	<a href="#">Wildlife Impacts</a>						
<b>Air Emissions -</b>  <a href="#">A comparison between the air emissions related to this product and the regional average air emissions.</a>								
<b>Radioactive Waste -</b>  <a href="#">Radioactive waste associated with the product.</a>	<table border="1" style="width: 100%;"> <thead> <tr> <th style="width: 50%;"><b>Type:</b></th> <th style="width: 50%;"><b>Quantity:</b></th> </tr> </thead> <tbody> <tr> <td><a href="#">High-Level Radioactive Waste</a></td> <td align="center">-      <a href="#">Lbs./1,000 kWh</a></td> </tr> <tr> <td><a href="#">Low-Level Radioactive Waste</a></td> <td align="center">-      <a href="#">Ft³/1,000 kWh</a></td> </tr> </tbody> </table> <p><small><a href="#">Note: The generation of this product involves the use of x% of unknown purchased resources. The air emissions and radioactive waste associated with these unknown resources are not included in these charts.</a></small></p>		<b>Type:</b>	<b>Quantity:</b>	<a href="#">High-Level Radioactive Waste</a>	- <a href="#">Lbs./1,000 kWh</a>	<a href="#">Low-Level Radioactive Waste</a>	- <a href="#">Ft³/1,000 kWh</a>
<b>Type:</b>	<b>Quantity:</b>							
<a href="#">High-Level Radioactive Waste</a>	- <a href="#">Lbs./1,000 kWh</a>							
<a href="#">Low-Level Radioactive Waste</a>	- <a href="#">Ft³/1,000 kWh</a>							
<p><a href="#">With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs. For further information, contact (Company name) at (company web address) or by phone at (company phone #).</a></p>								

**4901:1-10-31**  
**Appendix B**

<b><u>Environmental Disclosure - Quarterly Comparisons</u></b>																						
<b><u>Company Name</u></b>																						
<b><u>Projected Data for the XXXX Calendar Year</u></b>																						
<b><u>Actual Data for the Period MM/DD/XX to MM/DD/XX.</u></b>																						
<b><u>Generation Resource Mix -</u></b>  <a href="#">A comparison between the sources of generation projected to be used to generate this product and the actual resources used during this period.</a>	<p align="center"><b><u>Projected</u></b></p> 	<p align="center"><b><u>Actual</u></b></p> 																				
<b><u>Environmental Characteristics -</u></b>  <a href="#">A description of the characteristics associated with each possible generation resource.</a>	<table border="1"> <tbody> <tr> <td><a href="#">Biomass Power</a></td> <td><a href="#">Air Emissions and Solid Waste</a></td> </tr> <tr> <td><a href="#">Coal Power</a></td> <td><a href="#">Air Emissions and Solid Waste</a></td> </tr> <tr> <td><a href="#">Hydro Power</a></td> <td><a href="#">Wildlife Impacts</a></td> </tr> <tr> <td><a href="#">Natural Gas Power</a></td> <td><a href="#">Air Emissions and Solid Waste</a></td> </tr> <tr> <td><a href="#">Nuclear Power</a></td> <td><a href="#">Radioactive Waste</a></td> </tr> <tr> <td><a href="#">Oil Power</a></td> <td><a href="#">Air Emissions and Solid Waste</a></td> </tr> <tr> <td><a href="#">Other Sources</a></td> <td><a href="#">Unknown Impacts</a></td> </tr> <tr> <td><a href="#">Solar Power</a></td> <td><a href="#">No Significant Impacts</a></td> </tr> <tr> <td><a href="#">Unknown Purchased Resources</a></td> <td><a href="#">Unknown Impacts</a></td> </tr> <tr> <td><a href="#">Wind Power</a></td> <td><a href="#">Wildlife Impacts</a></td> </tr> </tbody> </table>		<a href="#">Biomass Power</a>	<a href="#">Air Emissions and Solid Waste</a>	<a href="#">Coal Power</a>	<a href="#">Air Emissions and Solid Waste</a>	<a href="#">Hydro Power</a>	<a href="#">Wildlife Impacts</a>	<a href="#">Natural Gas Power</a>	<a href="#">Air Emissions and Solid Waste</a>	<a href="#">Nuclear Power</a>	<a href="#">Radioactive Waste</a>	<a href="#">Oil Power</a>	<a href="#">Air Emissions and Solid Waste</a>	<a href="#">Other Sources</a>	<a href="#">Unknown Impacts</a>	<a href="#">Solar Power</a>	<a href="#">No Significant Impacts</a>	<a href="#">Unknown Purchased Resources</a>	<a href="#">Unknown Impacts</a>	<a href="#">Wind Power</a>	<a href="#">Wildlife Impacts</a>
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<a href="#">Natural Gas Power</a>	<a href="#">Air Emissions and Solid Waste</a>																					
<a href="#">Nuclear Power</a>	<a href="#">Radioactive Waste</a>																					
<a href="#">Oil Power</a>	<a href="#">Air Emissions and Solid Waste</a>																					
<a href="#">Other Sources</a>	<a href="#">Unknown Impacts</a>																					
<a href="#">Solar Power</a>	<a href="#">No Significant Impacts</a>																					
<a href="#">Unknown Purchased Resources</a>	<a href="#">Unknown Impacts</a>																					
<a href="#">Wind Power</a>	<a href="#">Wildlife Impacts</a>																					
<b><u>Air Emissions -</u></b>  <a href="#">Product-specific projected and actual air emissions for this period compared to the regional average air emissions.</a>																						
<b><u>Radioactive Waste -</u></b>  <a href="#">Product-specific projected and actual radioactive waste for this period.</a>	<table border="1"> <thead> <tr> <th><b><u>Type:</u></b></th> <th colspan="2"><b><u>Quantity:</u></b></th> </tr> </thead> <tbody> <tr> <td><a href="#">High-Level Radioactive Waste</a></td> <td align="center">-</td> <td><a href="#">Lbs./1,000 kWh</a></td> </tr> <tr> <td><a href="#">Low-Level Radioactive Waste</a></td> <td align="center">-</td> <td><a href="#">Ft³/1,000 kWh</a></td> </tr> </tbody> </table> <p><small><a href="#">Note: The generation of this product involves the use of x% of unknown purchased resources. The air emissions and radioactive waste associated with these unknown resources are not included in these charts.</a></small></p>		<b><u>Type:</u></b>	<b><u>Quantity:</u></b>		<a href="#">High-Level Radioactive Waste</a>	-	<a href="#">Lbs./1,000 kWh</a>	<a href="#">Low-Level Radioactive Waste</a>	-	<a href="#">Ft³/1,000 kWh</a>											
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<p><a href="#">With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs. For further information, contact (Company name) at (company web address) or by phone at (company phone #).</a></p>																						



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/26/2020 2:45:07 PM**

**in**

**Case No(s). 17-1842-EL-ORD**

Summary: Finding & Order that the Commission adopts amendments to Ohio Adm.Code Chapter 4901:1-10 regarding the Commission's rules for electrical safety and service standards electronically filed by Docketing Staff on behalf of Docketing