

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
ADOPTION OF REVISED OHIO
ADMINISTRATIVE CODE RULES 4901:1-7-
09, 4901:5-5-04, AND 4901:5-7-05.

CASE NO. 21-782-AU-ORD

FINDING AND ORDER

Entered in the Journal on July 14, 2021

I. SUMMARY

{¶ 1} The Commission adopts revised Ohio Adm.Code 4901:1-7-09, 4901:5-5-04, and 4901:5-7-05 as discussed herein.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} The Lieutenant Governor's office, under the auspices of the Common Sense Initiative (CSI) office and Innovate Ohio, has initiated a program using artificial computer intelligence software to analyze and update the Ohio Revised Code and the Ohio Administrative Code with the goal of streamlining state regulations and reducing the burden on Ohio businesses in accordance with R.C. 121.82.

{¶ 3} The results of this initiative identified three Ohio Administrative Code rules where the Commission should consider reducing the number of copies required to be filed and addressing outdated modes of communication. Those three rules are Ohio Adm.Code 4901:1-7-09 (Arbitration of 47 U.S.C. 252 interconnection agreements), 4901:5-5-04 (Forecasts for electric transmission owners), and 4901:5-7-05 (Resource forecasts and site inventories of transmission facilities for gas distribution companies serving more than fifteen thousand customers).

B. *Conclusion*

{¶ 4} Having considered the recommended rule changes in light of the analysis required by R.C. 121.82 to reduce the adverse impact on business whenever possible, the Commission adopts the proposed rule changes to Ohio Adm.Code 4901:1-7-09, 4901:5-5-04,

and 4901:5-7-05 as set forth in the attachment to this Finding and Order. The proposed rule changes and the business impact analysis should now be filed with the CSI in accordance with R.C. 121.82.

{¶ 5} The rules are posted on the Commission's Docketing Information System website at <http://dis.puc.state.oh.us>. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Finding and Order only. All interested persons are directed to input case number 21-782-AU-ORD into the Case Lookup box to view this Finding and Order, as well as the rules, or to contact the Commission's Docketing Division to request a paper copy.

III. ORDER

{¶ 6} It is, therefore,

{¶ 7} ORDERED, That Ohio Adm.Code 4901:1-7-09, 4901:5-5-04, and 4901:5-7-05 be adopted in accordance with Paragraph 4. It is, further,

{¶ 8} ORDERED, That the adopted rules be filed with the CSI for affirmation that the adopted rules reduce the adverse impact on businesses pursuant to R.C. 121.82. It is, further,

{¶ 9} ORDERED, That, once a positive response is received from the CSI, the adopted rules then be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission, in accordance with divisions (D) and (E) of R.C. 111.15. It is, further,

{¶ 10} ORDERED, That the final rules be effective on the earliest date permitted by law. It is, further,

{¶ 11} ORDERED, That a copy of this Finding and Order be served upon the Common Sense Initiative at CSIPublicComments@governor.ohio.gov. It is, further,

{¶ 12} ORDERED, That a copy of this Finding and Order be sent to the electric-energy, gas-pipeline, and telephone list-serves. It is, further,

{¶ 13} ORDERED, That a copy of this Finding and Order be served upon all regulated electric companies, regulated gas and natural gas companies, regulated incumbent and competitive telephone companies, and all other interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JRJ/mef

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Amended

4901:1-7-09 Arbitration of 47 U.S.C. 252 interconnection agreements.

[Comment: For dates of references to a section of either the United States Code or a regulation in the Code of Federal Regulations, see rule 4901:1-7-02 of the Administrative Code.]

- (A) Arbitration is an alternative dispute resolution process whereby parties present evidence and legal arguments to a neutral third party, called an arbitrator or an arbitration panel, who renders a recommended decision to the commission. Any party to the negotiation of an interconnection agreement may, during the period from the one hundred thirty-fifth to the one hundred sixtieth day (inclusive) after the date on which a local exchange carrier receives a request for negotiation, petition the commission to arbitrate any open issues.
- (B) The commission will only arbitrate issues that have been unresolved between the parties and filed with the commission in the petition for arbitration or the response to the petition.
- (C) To petition the commission for arbitration, a party to the negotiation shall file ~~two copies of~~ the request for arbitration with the commission's docketing division. Docketing will assign a docket number using the industry code TP and the purpose code ARB.
- (D) The petition must include the following information:
 - (1) ~~The name, address, telephone number, e-mail, and fax number~~ Contact information of the party to the negotiation making the request.
 - (2) Contact information ~~The name, address, telephone number, e-mail, and fax number~~ of the other party to the negotiation.
 - (3) Contact information ~~The name, address, telephone number, e-mail, and fax number~~ of the parties' representatives participating in the negotiation and to whom inquiries should be made.
 - (4) The negotiation history, including meeting times and locations.
 - (5) A list of the petitioning party's unresolved issues and a clear explanation of that party's position on the listed issues.
 - (6) All relevant nonproprietary documentation on any other issue discussed and resolved by the parties.

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- (7) A statement identifying information needed to decide unresolved issues or information that has been requested during negotiations but not yet provided.

(E) Notice of petition for arbitration

A petitioner requesting the commission to arbitrate unresolved issues shall provide a copy of the petition and accompanying documentation to the other party not later than the day on which the petition is filed with the commission.

(F) Opportunity to respond to petition

A nonpetitioning party to a petition for arbitration shall file a response to the petition within twenty-five calendar days after the petition to arbitrate is filed. The response should identify the nonpetitioning party's position on the petitioning party's unresolved issues. In addition, the nonpetitioning party may identify additional unresolved issues with a clear explanation of its position on the additional issues it identifies.

(G) Commission responsibility

- (1) Upon receipt of a timely and complete petition for arbitration, the commission shall appoint an arbitration panel. It is the function of the arbitration panel to recommend a resolution of the issues in dispute if the parties cannot reach a voluntary agreement.
- (2) Within ten calendar days of the filing of a request for arbitration, the arbitration panel will schedule a conference to be held within thirty calendar days after the filing of the arbitration petition. The purpose of the conference is to plan an arbitration hearing date, identify witnesses to be presented at the hearing, discuss possible admissions or stipulations of uncontested matters, clarify the issues to be resolved, identify additional information needed to reach a decision on the unresolved issues, schedule the production of relevant documents and other information, identify issues which have been resolved, discuss or rule on any other appropriate procedural matters, and consider any other procedures that will expedite the arbitration process. The arbitration panel is authorized to order any party to provide information that it deems necessary to reach a decision on the unresolved issues and to establish the time period for providing the information.
- (3) Unless otherwise determined by the arbitration panel, seven calendar days prior to the arbitration hearing, each party shall file an arbitration package that will assist the arbitrators in the conduct of the hearing. Unless previously submitted in writing to the panel, the arbitration package shall contain: the list of issues to be arbitrated as identified by the petition for arbitration or the response to the petition, the party's position as to each issue, identification of issues which have been resolved by the

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parties and a description of the resolution, the party's prefiled testimony, the exhibits which the party intends to introduce at the hearing, and a list of factual stipulations upon which the parties have agreed. Given the expedited nature of the arbitration process, factual stipulations are encouraged.

- (4) Unless otherwise determined by the arbitration panel and the parties, the panel will conduct a hearing with prefiled testimony, transcription of the hearing, and cross-examination of witnesses. Unless determined otherwise by the arbitration panel after consultation with the parties, the length of the hearing, including oral argument, will be limited to four calendar days. Generally, the arbitration panel will conduct the hearing process according to the following procedures:
- (a) The panel will provide the parties at least fifteen calendar days' written notice of the hearing.
 - (b) Unless consolidation of issues is permitted, only parties to the negotiation will be permitted to participate as parties to the arbitration hearing.
 - (c) The arbitration panel will permit discovery. Basic cost information to support prices for interconnection, services, or network elements should be exchanged expeditiously. The panel will establish a schedule for additional discovery by entry or at the prehearing conference.
 - (d) Whenever possible, the parties should enter into factual stipulations given the expedited hearing schedule.
 - (e) The chair of the arbitration panel will preside over the hearing.
 - (f) A written transcript of the hearing will be prepared.
 - (g) Witnesses shall be subject to cross-examination on their testimony. However, the arbitration panel shall have the authority to limit or prohibit cross-examination on policy or legal issues.
 - (h) Instead of requiring post-hearing briefs, the panel may hear oral arguments of the parties at the conclusion of the hearing.
 - (i) The arbitration panel will limit its consideration of any petition for arbitration and any response to the unresolved issues raised in the petition and response.
 - (j) The parties to the arbitration may be required to provide additional information as may be necessary for the arbitration panel to reach a decision on the unresolved

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issues. Information provided to the arbitration panel shall also be provided at the same time to the other parties to the arbitration. If any party refuses or fails to respond on a timely basis to any reasonable request from the arbitration panel, the arbitration panel may proceed on the basis of the best information available on the record.

- (k) The commission shall resolve each issue set forth in the petition and the response by imposing conditions that ensure that the resolution and conditions meet the requirements of 47 U.S.C. 251, establish rates for interconnection, services, or network elements in accordance with 47 U.S.C. 252(d), and provide a schedule for implementation of the terms and conditions by the parties to the agreement.
- (l) A commission arbitration award shall be issued not later than nine months after the date on which the local exchange carrier received the request for interconnection pursuant to 47 U.S.C. 252(b)(4)(C).
- (5) Within thirty calendar days after the issuance of the arbitration award, the parties shall file their entire interconnection agreement, consistent with the commission's arbitration award, for commission review. A complete interconnection agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement, including all separate agreements covering such services or network elements.
- (6) If the parties are unable to agree on an entire interconnection agreement, within thirty calendar days after the arbitration award is issued, each party shall file for commission review its version of the language that should be used in a commission-approved interconnection agreement. Unless otherwise authorized by the commission, no comments addressing disputed language filed under this provision will be entertained. The commission will select the competing language that most closely reflects the commission's award.
- (7) Parties to the arbitration may seek extension of any of the deadlines outlined in this rule by the mutual agreement of the parties and the arbitration panel.
- (H) Commission review

Unless otherwise determined by the commission, the agreement shall be deemed approved on the thirty-first calendar day.
- (I) Nothing in these rules precludes the filing of a voluntarily negotiated interconnection agreement at any time.

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(J) If the commission rejects a voluntary agreement resulting from negotiation or mediation, or an agreement arrived at by the arbitration process, the parties may file within thirty calendar days an application for rehearing for the commission's consideration. Alternatively, the parties may resubmit the agreement for commission approval within thirty calendar days following rejection if the parties have remedied the deficiencies found by the commission in its order.

(K) Confidentiality

The commission will treat information determined by the commission to be proprietary and confidential which is received during the mediation, negotiation, and/or arbitration process as confidential. The parties to the mediation, negotiation, and/or arbitration process are expected to negotiate appropriate protective orders for the exchange of information deemed to be proprietary. The commission's procedures concerning proprietary information contained in rule 4901-1-24 of the Administrative Code, shall govern the treatment of confidential and proprietary information.

(L) Waiver

- (1) Notwithstanding any provision in these rules, the mediator, arbitration panel, or the commission may permit variance from these rules.
- (2) The commission retains continuing jurisdiction and will maintain regulatory oversight over all approved interconnection agreements.

(M) Notice of approved interconnection agreements

All approved interconnection agreements may be obtained from the commission's docketing division or electronically by subscribing to a personal daily distribution list at the commission website.

Amended

4901:5-5-04 Forecasts for electric transmission owners.

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- (A) To the extent the information sought from electric transmission owners in this rule contains critical energy infrastructure information, such information shall remain at the reporting person's premises, but subject to inspection and review at the request of the commission's staff, unless the commission staff determines it necessary to take possession.

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(B) General guidelines. The electric transmission owner shall provide or cause to be provided data on the use of its transmission lines and facilities.

- (1) The forecast shall include data on all existing transmission lines and associated facilities of one hundred twenty-five kilovolts (kV) and above as defined by the commission, for year zero to year ten.
- (2) The forecast shall include data on all planned transmission lines and associated facilities of one hundred twenty-five kilovolts (kV) and above as well as substantial planned additions to, and replacement of existing facilities, as defined by the commission for year zero to year ten.
- (3) The reporting electric transmission owner shall be prepared to supply to the commission on demand, additional data and maps of transmission lines and facilities.

(C) Transmission energy data and peak demand forecast forms.

The electric transmission owner's forecast shall be submitted in an electronic form prescribed by the commission or its staff.

- (1) Electric transmission owners shall file energy delivery forecast (megawatt hours/year) data: Actual and forecast as shown on form FE-T1. The electric transmission owner shall indicate the total energy it received from all generating sources connected to their transmission system within Ohio as well as the total energy received from all generating sources connected to their system. They shall indicate the total energy received at interconnections with other electric transmission owners within Ohio as well as the total energy received from all its interconnections. The electric transmission owner shall report the total energy deliveries to interconnections within Ohio as well as to all its interconnections. The electric transmission owner shall report the total energy deliveries for loads within Ohio as well as to all load deliveries.
- (2) Electric transmission owners shall file system seasonal peak load demand forecasts: Actual and forecast system peak demand levels for summer and winter seasons as displayed on form FE-T2, covering both native and internal loads, as defined in the form.
- (3) Monthly data of energy and peak loads. The electric transmission owner shall specify in detail the methodology employed to produce monthly forecasts of energy and peak load for the current year and one year in the future. The reporting electric transmission owner shall provide or cause to be provided monthly information as required on the following forms:

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- (a) "Total monthly energy forecast" forecast information concerning monthly energy forecasts shall be provided for two years on form FE-T3.
- (b) "Monthly internal peak load forecast" forecast information concerning monthly peak load forecasts shall be provided for two years on form FE-T4.
- (c) "Monthly energy transaction" the reporting electric transmission owner shall provide or cause to be provided monthly data on all energy received and delivered for the twelve months of the most recent year for which actual data is reported on the forms FE-T5 and FE-T6:
 - (i) On form FE-T5 part A, the electric transmission owner shall provide or cause to be provided monthly data on all energy received under firm contract and nonfirm contract:
 - (a) From power plants directly connected to their transmission system.
 - (b) From other sources.
 - (c) The total energy received from all sources for the month.
 - (ii) On form FE-T5 part B, the electric transmission owner shall provide or cause to be provided monthly data on energy delivered under firm and nonfirm contract for the total system and for delivery points located in Ohio:
 - (a) The amount of power delivered to affiliated electric utilities.
 - (b) The amount of power delivered to other nonaffiliated investor-owned electric utilities.
 - (c) The amount of power delivered to cooperatively owned electric utilities.
 - (d) The amount of power delivered to municipally owned electric utilities.
 - (e) The amount of power delivered to federal and state electric agencies.
 - (f) The amount of power delivered for nondistribution service.
 - (g) The total amount of power delivered.
 - (iii) On form FE-T5 part C, the electric transmission owner shall provide or cause to be provided monthly data on system losses and/or unaccounted for energy by firm and nonfirm transmission service.

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- (4) The reporting electric transmission owner shall provide the following data on the operating conditions of transmission owner's system at the time of the system's monthly peak for each month during the most recent year on form FE-T6:
- (a) The date and time of peak.
 - (b) The peak MWs.
 - (c) Any scheduled transmission outages on the system.
 - (d) Any unscheduled transmission outages on the system.
 - (e) Any emergency operating procedures in effect.
- (D) The existing transmission system.
- (1) The reporting electric transmission owner shall provide or cause to be provided a brief narrative description of the existing electric transmission system and identify any transmission constraints and critical contingencies with and without the power transfers to the neighboring companies detailed in forms FE-T7 and FE-T8:
- (a) A summary of the characteristics of existing transmission lines shall be shown as indicated in form FE-T7, characteristics of existing transmission lines.
 - (b) A separate listing of substations for each line included in form FE-T7 shall be shown as indicated in form FE-T8, summary of existing substations.
- (2) Each reporting electric transmission owner shall provide or cause to be provided maps of its electric transmission system as follows:
- (a) One schematic map of the transmission network.
 - (b) A map showing the actual, physical routing of the transmission lines, geographic landmarks, major metropolitan areas, and the location of substations and generating plants, interconnects with distribution, and interconnections with other electric transmission owners.
 - (c) ~~Two copies~~One copy of the map described in paragraph (C)(2)(b) of this rule, for commission use, on a 1:250,000 scale. The electric transmission owners may jointly provide one set of maps to meet this requirement. Participation in the commission's joint mapping project will meet this requirement.
- (E) The planned transmission system.

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The reporting electric transmission owner shall provide or cause to be provided a detailed narrative description of the planned electric transmission and identify any transmission constraints and critical contingencies with and without the power transfers to the neighboring companies and a description of the plans for development of facilities for years zero through ten as follows:

- (1) Specifications of planned transmission lines shall be provided on form FE-T9, specifications of planned electric transmission lines for:
 - (a) New lines requiring new rights-of-way.
 - (b) Lines in which changes of capacity, either in terms of current, voltage, or both, are scheduled to take place.
 - (c) Other changes in transmission lines or rights-of-way, which would be considered as substantial additions, as defined in rule 4906-1-02 of the Administrative Code.
- (2) A listing of all proposed substations shall be provided in form FE-T10, summary of proposed substations.
- (3) The transmission forecast shall include maps of the planned transmission system as follows:
 - (a) An overlay to each of the maps required in paragraph (D) of this rule showing the planned transmission lines, substation, and generating plants as they will tie into the existing system; planned lines shall be shown and identified as such and keyed into form FE-T9, to provide as complete a picture of the system as is possible. Combined maps showing both existing and proposed facilities may be substituted for the overlays. Where planning horizons make it impractical to comply fully with the data requirements of this rule, as many data as are available shall be provided along with the estimated date on which additional data will be available.
 - (b) ~~Two copies~~One copy of the above overlay, for commission use, on a scale of 1:250,000. The electric transmission owners may jointly provide one set of overlays to meet this requirement. Participation in the commission's joint mapping project will meet this requirement.
- (F) Substantiation of the planned transmission system.

The reporting electric transmission owner shall submit a substantiation of transmission development plans, including:

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- (1) Description and transcription diagrams of the base case load flow studies of the transmission owner's transmission system in Ohio, one for the current year and one as projected either three or five years into the future, and provide base case load flow studies on computer disks in PSSE or PSLF format along with transcription diagrams for the base cases.
 - (2) A tabulation of and transcription diagrams for a representative number of contingency cases studied along with brief statements concerning the results.
 - (3) Analysis of proposed solutions to problems identified in paragraph (F)(2) of this rule.
 - (4) Adequacy of the electric transmission owner's transmission system to withstand natural disasters and overload conditions.
 - (5) Analysis of the electric transmission owner's transmission system to permit power interchange with neighboring systems.
 - (6) A diagram showing the electric transmission owner's import and export transfer capabilities and identifying the limiting element(s) during each season of the reporting period. In addition, the reporting electric transmission owner will provide a listing of transmission loading relief (TLR) procedures called during the last two seasons for which actual data are available. That listing may include only those TLRs called as a result of a transmission limit on the reporting electric transmission owner's transmission system. For each TLR event, the listing shall include the maximum level, and the duration at the maximum level, and the magnitude (in MW) of the power curtailments.
 - (7) A description of any studies regarding transmission system improvement, including, but not limited to, any studies of the potential for reducing line losses, thermal loading, and low voltage, and for improving access to alternative energy resources.
 - (8) A switching diagram of the transmission network.
- (G) Regional and bulk power requirements.

To avoid the inefficiencies associated with having each electric transmission owner report this data, the electric transmission owners may have the regional transmission system operator submit a single report on their behalf. This information shall be provided as soon as it becomes available. Data provided to the commission concerning the electric transmission owner's existing and planned bulk power transmission system (two hundred thirty kV and above) shall include the following:

- (1) The most recent regional power existing facilities and an authorized map.

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- (2) A plan on the bulk power transmission network of the region in service (total certified territory of the companies in the region including out-of-state certified territories) at the time of the report, including interfaces with adjoining regions.
- (3) Regional transmission system power interchange matrix.
- (4) A transmission diagram and a summary of the load flow base case studies of the bulk power network of the region as it now exists at the time of reporting.
- (5) A plan of the bulk power transmission network of the region (including interties with adjoining regions) and the general routing of facilities committed or tentatively projected for service within ten years, including identification of principal substations, operating voltages, and projected in-service dates.
- (6) A list and diagram showing transmission constraints of the bulk power transmission network, including interconnections.

Amended

4901:5-7-05 Resource forecasts and site inventories of transmission facilities for gas distribution companies serving more than fifteen thousand customers.

- (A) General guidelines.
 - (1) The forecast shall include data on all existing and planned transmission lines and associated facilities, planned additions to, and replacement of, existing facilities, as defined by section 4906.01 of the Revised Code and rule 4906-1-02 of the Administrative Code, as well as any such gas lines leased or acquired.
 - (2) The reporting utility shall be prepared to provide the commission, on request, additional maps of transmission facilities.
- (B) Specific requirements for gas distribution companies serving more than one hundred thousand customers.
 - (1) The existing transmission system.
 - (a) The reporting utility shall provide a brief narrative description of the existing gas transmission system which is detailed in form FG3-1.

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- (b) Each reporting utility shall provide maps of the gas transmission system within Ohio through which the reporting utility provides service as follows:
- (i) A map showing the actual, physical routing of the transmission lines, pumping stations, city gates, storage facilities, system interconnections, geographic landmarks, major interstate and intrastate pipelines, major metropolitan areas, and major highways.
 - (ii) One copy of the map described in paragraph (B)(2)(a) of this rule, for commission use, on a 1:250,000 scale. The utilities may jointly provide one set of maps to meet this requirement. Participation in the commission's joint mapping project will meet this requirement.
- (2) The planned transmission system. The transmission forecast shall include maps of the planned transmission system as follows:
- (a) An overlay to each of the maps required in paragraph (B) of this rule showing the planned transmission lines and associated facilities as they will tie into the existing system; planned lines shall be shown and identified as such and keyed into form FG3-2 to provide as complete a picture of the system as is possible. Combined maps showing both existing and proposed facilities may be substituted for the overlays. Where planning horizons make it impractical to comply fully with the data requirements of this rule, as many data as are available shall be provided along with the estimated date on which additional data will be available.
 - (b) ~~Two copies~~One copy of the above overlay, for commission use, on a scale of 1:250,000 participation in the commission's joint mapping project will meet this requirement.
- (3) Transmission forecast forms. The reporting utility shall provide, on forms supplied by the commission:
- (a) A summary of the characteristics of existing transmission lines as indicated in Form FG3-1, "Characteristics of Existing Transmission Lines."
 - (b) Specifications of planned transmission lines as indicated in form FG3-2, "Specifications of Planned Gas Transmission Lines."
- (C) Specific requirements for gas distribution companies serving fifteen thousand to one hundred thousand customers.
- (1) Existing transmission system.

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- (a) The reporting utility shall provide a brief narrative description of the existing gas transmission system which is detailed in form FG3-1.
 - (b) The reporting utility shall provide a summary of the characteristics of existing transmission lines as indicated in form FG3-1, "Characteristics of Existing Transmission Lines."
 - (c) Upon request, the reporting utility shall provide a map of its service area and other information as may be required by the commission.
- (2) The planned transmission system. If applicable, the reporting utility shall submit a ten-year resource forecast of all gas transmission facilities to be constructed, leased, or acquired with location of such facilities indicated on the map referenced in paragraph (C)(1)(c) of this rule.

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Case No(s). 21-0782-AU-ORD

Summary: Finding & Order adopting revised Ohio Adm.Code 4901:1-7-09, 4901:5-5-04, and 4901:5-7-05 as discussed herein electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio