

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROPER
PROCEDURES AND PROCESS FOR THE
COMMISSION'S OPERATION AND
PROCEEDINGS DURING THE DECLARED
STATE OF EMERGENCY AND RELATED
MATTERS.

CASE NO. 20-591-AU-UNC

IN THE MATTER OF E-FILING
CONFIDENTIAL DOCUMENTS DURING
THE DECLARED STATE OF EMERGENCY.

CASE NO. 20-2000-XX-XXX

ENTRY

Entered in the Journal on October 20, 2021

I. SUMMARY

{¶ 1} The Commission finds that, effective October 25, 2021, the procedures and processes for the electronic filing of confidential documents should be updated to accommodate the expanded functionality of the Docketing Information System.

II. DISCUSSION

{¶ 2} The Supreme Court has found that the Commission is vested with considerable discretion “to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay and eliminate unnecessary duplication of effort.” *Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560, 433 N.E.2d 212 (1982); *see also Sanders Transfer, Inc. v. Pub. Util. Comm.*, 58 Ohio St.2d 21, 23, 387 N.E.2d 1370 (1979) (“The public utilities commission is invested with a discretion as to its order of business, and there is such a wide latitude of that discretion that this court may not lawfully interfere with it, except in extreme cases.”).

{¶ 3} Ohio Adm.Code Chapter 4901-1 contains administrative provisions and procedures applicable to Commission proceedings. Ohio Adm.Code 4901-1-38 provides that the Commission may waive any requirement of the chapter, other than a requirement mandated by statute from which no waiver is permitted, upon good cause shown.

{¶ 4} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies were required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens were urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and was intended to remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 5} Pursuant to R.C. 3701.13, the Ohio Department of Health has “supervision of all matters relating to the preservation of the life and health of the people” and “authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 6} On March 12, 2020, the Commission opened Case No. 20-591-AU-UNC and issued the first of many directives in response to the declared state of emergency.

{¶ 7} As part of the ongoing effort to avoid unnecessary COVID-19 risks associated with social contact, the Commission issued an Entry on April 8, 2020, to address restrictions preventing the electronic filing of confidential documents. The Commission, therefore, waived certain provisions of Ohio Adm.Code 4901-1-02 and Ohio Adm.Code 4901-1-24, in order to permit the electronic filing of documents for which protective or confidential treatment is requested. In the Entry, the Commission set forth procedures and processes for the electronic filing of confidential documents, in Case No. 20-2000-XX-XXX, for the

duration of the emergency or until otherwise ordered by the Commission. The Commission also noted that it would continue to accept the filing of confidential documents by mail.

{¶ 8} On June 18, 2021, the governor signed Executive Order 2021-08D, which took effect immediately and declared that, based upon the current circumstances surrounding the response to COVID-19, the state of emergency is no longer required.

{¶ 9} By Entry dated July 28, 2021, the Commission determined that the emergency directives issued in Case No. 20-591-AU-UNC, to the extent that they had not already expired, should be lifted. The Commission directed, however, that the electronic filing of confidential documents may continue in accordance with the requirements set forth in the April 8, 2020 Entry issued in these cases, until otherwise ordered by the Commission.

{¶ 10} Consistent with InnovateOhio and goals set out in Executive Order 2019-15D, the Commission through information technology (IT) projects aims to modernize the interactions between the state of Ohio and the public through technology. These IT projects have the potential to streamline services, improve the accessibility of government programs, and reduce administrative costs. The Commission is currently working on a series of projects to modernize and enhance the Docketing Information System (DIS) with these and other goals in mind.

{¶ 11} On October 25, 2021, the Commission will implement improvements to the electronic filing process for confidential documents in DIS that will benefit both the DIS filing community and the Commission's docketing division staff. As set forth in more detail in Attachment A to this Entry, DIS users will file confidential documents by selecting the actual case number rather than Case No. 20-2000-XX-XXX. Additionally, the DIS user will be able to select the document type and then indicate that the document is confidential. As another benefit of this project, DIS users will no longer need to submit a cover sheet with the confidential filing; that step has been automated as part of the improved filing process.

If applicable, DIS users will need to continue to file a public version of the document, as well as any required motion for protective treatment.

{¶ 12} DIS users electing to electronically file documents containing confidential information are reminded to exercise caution in following these updated filing procedures and to confirm that filings are completed correctly, by complying with the instructions provided in Attachment A. While the Commission is providing a means by which to submit confidential documents electronically, the Commission will also continue to accept confidential documents by mail or in-person filing at this time.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the procedural directives set forth as Attachment A be adopted and followed by any party or person electronically filing documents containing confidential information, until otherwise ordered by the Commission. It is, further,

{¶ 15} ORDERED, That notice of this Entry be served via the Electric-Energy, Gas-Pipeline, Railroad, Telephone, Transportation, and Water industry service lists. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

COMMISSIONERS:

Approving:

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

SJP/mef

ELECTRONIC FILING OF CONFIDENTIAL DOCUMENTS

The Public Utilities Commission of Ohio (PUCO or Commission), by Entries issued on April 8, 2020, and October 20, 2021, has authorized the electronic filing of confidential documents in the Docketing Information System (DIS).

In accordance with the Commission's April 8, 2020, and October 20, 2021 Entries, parties and persons intending to file documents containing trade secret, proprietary, or otherwise confidential information via electronic filing shall adhere to the following procedures and processes, effective October 25, 2021, until otherwise ordered by the Commission.

Electronically filing a confidential document. If you do not already have an e-filing profile in DIS, you will need to create one:

<https://puco.ohio.gov/wps/portal/gov/puco/documents-and-rules/resources/how-to-register-in-DIS>

The Commission provides the following instructions for the confidential e-filing process, which includes several controls to ensure confidential e-filings are not made public. These requirements must be met to comply with the process for filing a confidential document electronically in DIS:

1. On the "Case Selection" page of the e-filing process, the filer should select the actual case number for the case to which the document pertains. It is no longer necessary to use Case No. 20-2000-XX-XXX for confidential documents.
2. On the "Document Information" page, the filer must click the "Yes" button to indicate that the document is confidential. The filer should also select the actual document type (e.g., "Brief") when entering the document information. In the summary for the docket card, the word "CONFIDENTIAL" followed by the selected document type will be automatically inserted by DIS as the first part of the description of the document. The user should type any additional descriptive information for the document in the text box.
3. On the next page, the filer should select the official PDF file for the confidential document.
 - a. No source files are to be provided. If PUCO staff requires source files, PUCO staff will contact the filer and those documents can be filed separately.

- b. It is no longer necessary to complete and submit a Confidential Electronically Filed Document Cover Sheet as the first page of the PDF for the confidential document. That step in the filing process has been automated.
4. If applicable, file the public version of your confidential document in the case number to which the document pertains, as well as any required motion for protective treatment.

Following your confidential e-filing:

1. The PUCO Docketing Division (Docketing) will review the confidential e-filing. Filers will receive an email notice that indicates the status of the confidential submission: (1) the confidential filing has been received and accepted; or (2) the confidential filing has been rejected (with the reason noted).
2. If the confidential e-filing is accepted, a Confidential Target Document, a placeholder indicating that a confidential document was filed, will be automatically created and filed in the actual intended case. It is recommended that the filer review the actual intended case and “subscribe” to the case in DIS to ensure that the document was properly filed.

Confidential Filing Disclaimer

By submitting confidential documents to DIS, you agree to the following:

The PUCO is not responsible for publication of documents deemed to be confidential to the Docketing Information System (DIS) that are not filed in compliance with the required confidential submission protocols in Attachment A to the Entry issued by the Commission on April 8, 2020, as modified by the Entry issued on October 20, 2021, in Case No. 20-591-AU-UNC. Confidential information being electronically filed in DIS must be designated as confidential by clicking the “Yes” button on the “Document Information” page to indicate that the document is confidential. Failure to file such confidential documents in accordance with the confidential submission protocols may result in publication and incur liability for you or the organization holding the trade secret under Ohio law for misappropriation or other liability for disclosure of confidential information.

Need help filing your confidential document? Instructions for the filing of confidential documents can be accessed at:
<https://puco.ohio.gov/wps/portal/gov/puco/documents-and-rules/resources/confidential-e-filing-procedures>.

PUCO Docketing Operation Hours: Pursuant to Ohio Adm.Code 4901-1-02, the docketing division accepts filings from 7:30 a.m. to 5:30 p.m., Monday through Friday, except on state holidays. You may also receive assistance on filing confidential documents by emailing Docketing's staff at docketing@puco.ohio.gov.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/20/2021 2:41:26 PM

in

Case No(s). 20-2000-XX-XXX

Summary: Confidential Document finding that, effective October 25, 2021, the procedures and processes for the electronic filing of confidential documents should be updated to accommodate the expanded functionality of the Docketing Information System electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio