

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF CHAPTER 4901:1-25 OF THE
OHIO ADMINISTRATIVE CODE.

CASE NO. 21-478-EL-ORD

ENTRY

Entered in the Journal on December 15, 2021

I. SUMMARY

{¶ 1} The Commission directs all interested persons or entities to file comments no later than January 7, 2022, and reply comments no later than January 14, 2022, with the Commission regarding its proposal to amend Ohio Adm.Code 4901:1-25-01 and 4901:1-25-02 and create new Ohio Adm.Code 4901:1-25-03, regarding electric service generation market monitoring reporting requirements.

II. DISCUSSION

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require all state agencies to conduct a review of their rules every five years to determine whether those rules should be continued without change, be amended, or be rescinded. The Commission has opened this docket to review Ohio Adm.Code Chapter 4901:1-25, which concerns market monitoring by the Commission.

{¶ 3} In performing this review, R.C. 106.03(A) requires the Commission to determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;

- (d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74 and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 4} Also, under R.C. 121.82, in the course of developing draft rules, the Commission must evaluate whether those rules will have an adverse effect on businesses and prepare a business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the Commission is tasked to incorporate features into the draft rules to eliminate or adequately reduce the adverse business impact. R.C. 121.82 also requires the Commission to provide a copy of the draft rules and BIA to the Common Sense Initiative (CSI) office for comment.

{¶ 5} On May 6, 2021, the Commission held a workshop in this proceeding to enable interested stakeholders an opportunity to propose any changes to Ohio Adm.Code Chapter 4901:1-25, regarding electric service generation market monitoring reporting requirements. Two stakeholders attended the workshop.

{¶ 6} The Commission and Staff have evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-25. Staff's proposed amendments to Ohio Adm.Code 4901:1-25-

01 (Definitions) are primarily nonsubstantive. Specifically, terminology that is no longer used is deleted, cross-references are inserted for terms that are defined in the Revised Code or Administrative Code, and a definition is added for “aggregated group” because this term had not been defined but was used in this chapter.

{¶ 7} Regarding current Ohio Adm.Code 4901:1-25-02 (Market Monitoring - Reporting Requirements), Staff observes that electric distribution utilities (EDUs), electric service companies, electric cooperatives, and government aggregators must submit market monitoring data to the Commission. Staff proposes to eliminate such reporting requirements for electric service companies and electric cooperatives. For EDUs, Staff proposes that data concerning electric generation services include -- within the total amount of customers -- the subset of customers that are participating in green pricing programs, the billed revenue for green pricing programs, and the amount of green pricing program sales in megawatt hours.

{¶ 8} Staff also proposes, within Ohio Adm.Code 4901:1-25-02, separating the market monitoring reporting requirement for each type of reporting entity, so that filers can better understand what information must be submitted. Specifically, quarterly filing requirements for EDUs will be contained in Ohio Adm.Code 4901:1-25-02(A)(1), while such requirements for power marketers and independent power producers will be contained in Ohio Adm.Code 4901:1-25-02(A)(2), and filing requirements for governmental aggregators will be contained in Ohio Adm.Code 4901:1-25-02(A)(3).

{¶ 9} Finally, Staff proposes that reporting requirements currently contained in Ohio Adm.Code 4901:1-25-02(A)(2)(c) be moved into newly created Ohio Adm.Code 4901:1-25-03 (Distributed Generation - Reporting Requirements), because these reporting requirements differ from other reporting requirements in Ohio Adm.Code 4901:1-25-02. In addition, Staff inserts new language that requires reporting of the nameplate capacity of the inverter, if applicable, in megawatts or kilowatts; the location of the generating unit; and the date of interconnection. Additionally, Staff proposes that interconnection applications that

are pending should not be removed from the quarterly report until an interconnection agreement is completed, and that a party may file seeking disclosure of information contained in such reports. Such information will be disclosed unless a motion for protective order is filed with, and approved by, the Commission.

{¶ 10} Attached to this Entry are the proposed revisions to Ohio Adm.Code 4901:1-25-01 and 4901:1-25-02 and new rule Ohio Adm.Code 4901:1-25-03 (Attachment A), and the BIA (Attachment B), which are also 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 Entry only. All interested persons are directed to input case number 21-478 into the Case Lookup box to view this Entry, as well as the proposed changes, or to contact the Commission's Docketing Division to request a paper copy.

{¶ 11} The Commission requests comments from interested persons to assist in the review required by R.C. 111.15 and R.C. 106.03. Comments should be filed, via electronic filing or in hard copy, by November 12, 2021. Reply comments should be filed by November 19, 2021.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than January 7, 2022, and January 14, 2022, respectively. It is, further,

{¶ 14} ORDERED, That a copy of this Entry, with the rules and the BIA, be submitted to CSI, in accordance with R.C. 121.82. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all electric distribution utility companies and competitive retail electric service providers in the state of Ohio, and the Office of the Ohio Consumers' Counsel, and all interested persons of record in this case.

COMMISSIONERS:

Approving:

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

JML/hac

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AMENDED

4901:1-25-01 Definitions.

As used in this chapter:

- (A) "Affiliate" ~~shall have~~has the same meaning ~~set forth~~as in rule ~~4901:1-20-16~~4901:1-37-01(A) of the Administrative Code.
- (B) ~~"Aggregation service" means the act of combining the electric load of multiple customers for the purposes of supplying or arranging for the supply of competitive retail electric generation service to those customers."~~"Aggregated Group" means the municipal corporation, board of township trustees, or board of county commissioners that, by ordinance or resolution, aggregated the customers' retail electric loads within its jurisdiction.
- ~~(C) "Aggregator" means a person who provides aggregation service.~~
- ~~(D) "Certified competitive electric cooperative" means a not for profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 7 U.S.C. 901, and owns or operates facilities in this state to generate, transmit, or distribute electricity, or a not for profit successor of such company, which has been certified by the commission to be a competitive retail electric service provider in accordance with the provisions of section 4928.08 of the Revised Code.~~
- ~~(E)~~ (C) "Commercial customer" means a nonresidential, nonindustrial customer.
- ~~(F)~~ (D) "Commission" means the public utilities commission of Ohio.
- ~~(G)~~ (E) "Competitive retail electric service" (CRES) ~~shall have~~has the same meaning ~~as set forth~~as in division (A)(4) of section 4928.01 of the Revised Code.
- ~~(H)~~ (F) "Customer" for the purpose of this chapter ~~shall have~~has the same meaning as it has in the distribution tariff of the electric utility serving the customer.
- ~~(I)~~ (G) ~~"Distributed generation energy resource" (DER) means any generation facility interconnected to a utility distribution system, including facilities that generate electricity~~ has the same meaning as that set forth in 4901:1-22-01 of the Administrative Code.
- ~~(J)~~ (H) "Electric utility" ~~shall have~~has the same meaning set forth in division (A)(11) of section 4928.01 of the Revised Code.
- ~~(K) "Electric services company" shall have the meaning set forth in division (A)(9) of section~~

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~~4928.01 of the Revised Code.~~

- (~~LI~~) "Governmental aggregator" ~~shall have~~has the same meaning as that set forth in division (A)(13) of section 4928.01 of the Revised Code. In accordance with division (F) of section 4928.20 of the Revised Code, a governmental aggregator is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregation service is not a wholesale utility transaction.
- (~~MJ~~) "Green pricing program" ~~shall have the~~has the same meaning as ~~set forth~~ in rule 4901:1-42-01 of the Administrative Code.
- (~~NK~~) "Independent power producer" means an owner of generation who sells at least a portion of the electric energy from that generation at retail.
- (~~OL~~) "Industrial customers" means establishments categorized under standard industrial classification codes 01 through 39, or the associated 1997 North American industry classification system codes 11, 21, 23, 31, 32, and 33.
- (~~PM~~) "Interconnection applicant" ~~shall have~~has the same meaning as "applicant" in paragraph (A) of rule 4901:1-22-01 of the Administrative Code.
- (~~QN~~) "Interconnection application" ~~shall have~~has the same meaning as "application" in paragraph (B) of rule 4901:1-22-01 of the Administrative Code.
- (~~RO~~) "Ohio certificate number" means the authorized identification number of an approved certification to provide a CRES as granted to the provider by the commission in accordance with the provisions of section 4928.08 of the Revised Code.
- (~~SP~~) "Power marketer" ~~means a person, certified by the commission, who provides power marketing services~~ has the same meaning as in rule 4901:1-24-01 of the Administrative Code.
- (~~TQ~~) "Power marketing" ~~means assuming the contractual and legal responsibility for the sale and provision of competitive retail electric generation service to a retail customer in this state and having title to electric power at some point during the transaction~~ has the same meaning as in rule 4901:1-24-01 of the Administrative Code.
- (~~UR~~) "Reporting entity" means the electric utility, ~~or the certified~~ competitive retail electric service provider, governmental aggregator, or independent power producer filing market monitoring information on a regularly scheduled quarterly basis ~~as required by~~to the commission.
- (~~VS~~) "Residential customers" means customers who consume electricity at private residences, whether owned or rented, including single family homes, multifamily housing units that are

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individually metered, and mobile homes only for personal use. Institutional housing, such as school dormitories, hospitals, and military barracks are included in the commercial sector.

- (~~WT~~) "Special contract customer" means a customer taking bundled service under a contract approved by the commission.
- (~~XU~~) "Street lighting and other customer" means a customer purchasing electric generation service for purposes of street and highway lighting.
- (~~YV~~) "Standard service offer" means ~~a standard service offer filed with the~~ an electric utility's rate plan authorized by the commission ~~by an electric utility~~ under sections ~~4928.1412 or 4928.143~~ of the Revised Code, ~~of all CRES necessary to maintain essential electric service to consumers, including a firm supply of electric generation service priced.~~

AMENDED

4901:1-25-02 Market monitoring - reporting requirements.

- (A) Each electric utility, ~~and each electric services company~~ power marketer, electric-cooperative ~~independent power producer~~, and governmental aggregator subject to certification under section 4928.08 of the Revised Code shall submit market monitoring data to the commission or its staff on a quarterly basis, on forms to be issued by the commission, as follows:
- (1) Each electric utility, ~~certified electric services company (power marketer, power broker, nongovernmental aggregator, and independent power producer), certified electric-cooperative and certified governmental aggregator~~ shall file a quarterly report that contains information which includes, but is not limited to, the following:
- (a) Entity name.
 - (b) Business address.
 - (c) Name and title of the person responsible for submitting the market monitoring data required by this rule.
 - (d) Authorized signature.
 - (e) The name, address, telephone number, ~~fax number~~, and e-mail address of the person to

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contact with questions regarding this report responsible for customer enrollment.

~~(2f) Each electric utility shall file on a quarterly basis m~~Monthly data related to electric generation services. The information contained in this report shall include, but not be limited to, the following:

~~(a)~~ For those customers for whom the entity provides generation service:

(1) The total number of customers, total billed revenues, and the amount of total sales in megawatt hours, and the amount of billed revenues. The reporting entity shall report this data by rate schedule and by customer class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable separately for standard service offer customers and for special contract customers.

(2) As a subset of total customers, the number of customers participating in utility offered green pricing programs, billed revenue for green pricing programs, and the amount of green pricing program sales in megawatt hours. The reporting entity shall report this data by rate schedule and by customer class.

(ii) Monthly system peak data identifying the number of megawatts, the peak day of the month, the peak day of the week, and the peak hour of the month.

(iii) The reporting requirements set forth in paragraph (M) of rule 4901:1-10-34 of the Administrative Code.

~~(b) Monthly system peak data identifying the number of megawatts, the peak day of the month, the peak day of the week, and the peak hour of the month.~~

~~(c) Information about generation resources owned by retail customers and connected to its distribution system, regardless of the voltage at which they are interconnected; all generation resources connected at a distribution voltage, which were interconnected as a result of an interconnection application; and all resources owned by the utility and interconnected at a distribution voltage, which but for such ownership would have been the subject of an interconnection application. The report shall include the following information:~~

~~(i) A list of generating units.~~

~~(ii) A statement of whether each generating unit is owned by an end use customer, by the electric utility, by an affiliate of the electric utility, or by a nonaffiliated entity.~~

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that is not an end use customer.

~~(iii) A statement of whether or not the generator is dispatched by the control area operator or by the owner.~~

~~(iv) The nameplate capacity of the generator, in megawatts or kilowatts.~~

~~(v) The fuel type used by each generating unit.~~

~~(vi) The technology type of generating unit (e.g., fuel cell, turbine, diesel, photovoltaic, etc.).~~

~~(d) Notice to staff of any and all interconnection applications by interconnection applicants seeking to become interconnection service customers, where such applications have not yet resulted in interconnection (that is, applications that are under consideration). The required notice shall be in the form of a narrative report attached to the quarterly market monitoring report that is required by this rule and submitted on a quarterly basis. The narrative report shall include the following information:~~

~~(i) Name and contact information of the electric utility employee who is directly responsible for processing the interconnection application and/or interacting with the interconnection applicant.~~

~~(ii) Description of each interconnection request in terms of the amount and type of generation for which interconnection is being sought, and the location of the proposed interconnection.~~

~~(iii) Copies of any and all written notices required by paragraphs (C)(3), (C)(4), (C)(5), (C)(6), and (C)(7) of rule 4901:1-22-04 of the Administrative Code.~~

~~(iv) Description of the status of each interconnection application in terms of process steps that have been completed, process steps that remain to be completed, and any progress or lack thereof in addressing issues.~~

~~Until the interconnection application is completed the status of each pending interconnection application shall be updated in subsequent quarterly narrative reports by describing any modifications to the interconnection application, any meetings that may have occurred, and any correspondence or communications that have occurred between the electric utility and the interconnection applicant. The electric utility shall provide the following disclaimer on the applicant's copy of the report: If the applicant has any issues with the accuracy of this report, the applicant may contact the PUCO at (800)686-7826.~~

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- ~~(e) For those customers for whom the entity provides generation service: The number of customers participating in utility green pricing programs and the volume of participation in such programs in megawatt hours, reported by customer class.~~
- ~~(f) The electric utility shall include in its quarterly reporting of monthly data related to electric generation the reporting requirements set forth in rule 4901:1-10-28 and paragraph (M) of rule 4901:1-10-34 of the Administrative Code.~~
- (2) Each power marketer and independent power producer shall file a quarterly report that contains information which includes, but is not limited to, the following:
- (a) Entity name, including their Ohio certificate number.
- (b) Business address.
- (c) Name and title of the person responsible for submitting the market monitoring data required by this rule.
- (d) Authorized signature.
- (e) The name, address, telephone number, and e-mail address of the person to contact with questions regarding this report.
- (f) For those customers for whom the entity provides generation service:
- (i) The total number of customers, total billed revenues, and the amount of total sales in megawatt hours. The reporting entity shall report this data by customer class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.
- (ii) The number of customers participating in CRES-offered green pricing program, billed revenue for green pricing programs, and the amount of green pricing program sales in megawatt hours. The reporting entity shall report this data by customer class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.
- ~~(3) Each certified retail electric services company, certified electric cooperative, and certified governmental aggregator shall submit to staff on a quarterly basis monthly data related to competitive electric generation services. The reporting entity shall submit this information~~

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~~separately for each electric utility's service territory in which it does business. The information contained in this report shall include, but not be limited to, the following:~~

- ~~(a) Identity of the reporting entity including their competitive retail electric service (CRES) certificate number.~~
 - ~~(b) For those customers for whom the entity provides generation service: The number of customers, the amount of sales in megawatt hours. The reporting entity shall report this data by customer class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.~~
 - ~~(c) For those customers for whom the entity provides generation service total billed revenues. The reporting entity shall report this data by rate schedule class (residential, commercial, industrial, or street lighting/other) and by subclass, if applicable.~~
 - ~~(d) For those customers for whom the entity provides generation service: The number of customers participating in CRES offered green pricing programs and the volume of participation in such programs in megawatt hours, reported by customer class.~~
- (43) Each ~~certified aggregator and certified~~ governmental aggregator shall submit to staff on a quarterly basis monthly data related to aggregation activity. The reporting entity shall submit this information separately for each electric utility's service territory in which it does business, and separately for each aggregated group within those service territories. The information contained in this report shall include, but not be limited to, the following:
- ~~(a) The identity of the aggregator including its CRES certificate number.~~
 - (a) Entity name, including their Ohio certificate number.
 - (b) Business address.
 - (c) Name and title of the person responsible for submitting the market monitoring data required by this rule.
 - (d) Authorized signature.
 - (e) The name, address, telephone number, and e-mail address of the person to contact with questions regarding this report.
 - ~~(bf)~~ The electric utility's service territory for which the report is being made.
 - ~~(eg)~~ The name of each aggregated group.

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(h) The marketer supplying power to each aggregated group.

(di) The number of customers by customer class in each aggregated group.

(ej) The total number of customers in each aggregated group.

(fk) The total number of all customers by customer class.

(gl) The total number of customers.

(5B) The information contained in the reports provided to the commission and/or staff pursuant to paragraphs ~~(A)(2)(d)~~, ~~(A)(32)~~, and ~~(A)(43)~~ of this rule, will be held as confidential.

(a1) Any person may file a request for disclosure requesting disclosure of information filed pursuant to paragraphs ~~(A)(2)(d)~~, ~~(A)(32)~~, and ~~(A)(43)~~. A request for disclosure must identify the information being sought and the report from which it is being sought. The party that filed the report containing the information being sought will be provided three business days' notice that information being held as confidential will be disclosed unless a motion for protective order is filed within three business days. To prevent disclosure, the party that filed the report containing the information being sought must file a motion for protective order consistent with rule 4901-1-24 of the Administrative Code within the three business days. If no motion for protective order is filed, the information being sought will be disclosed on the fourth business day after the notice of disclosure.

(b2) All other information filed with the commission and/or staff will be deemed public pursuant to section 4905.07 of the Revised Code, unless accompanied by a motion for protective order consistent with rule 4901-1-24 of the Administrative Code.

(BC) Pursuant to Chapter 4935. and division (E) of section 4928.02 of the Revised Code, any entity that owns or has an affiliate that owns electric transmission or distribution facilities shall provide or cause to be provided to the commission and to staff cost-effective and efficient access to information regarding the operation of the transmission or distribution systems of electric utilities to assist in determining the existence and extent of a transmission constrained area, and to information that may assist the commission or staff in determining the impact of transmission constraints on the price of a competitive retail electric service. Each entity that owns or that has an affiliate that owns electric transmission or distribution facilities shall provide or cause to be provided to the commission and staff a report of any denials of service for either transmission or distribution service due to constraints in the transmission or distribution system, the amounts of energy curtailed or denied, the duration of these curtailments or denials, and the reasons why the service was denied. These reports shall be provided to the commission and to staff annually with the third quarterly reports filed pursuant

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to paragraph (A)(1) of this rule.

- (~~C~~D) Nothing in this rule shall limit the ability of the commission, or staff, to collect additional data from any electric distribution utility or any electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code in carrying out the commission's responsibilities under Chapter 4928. of the Revised Code.
- (~~D~~E) 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.

NEW

4901:1-25-03 Distributed Generation – reporting requirements

(A) Each electric utility shall file on a quarterly basis data related to distributed energy resources connected to the electric utility's distribution system.

(1) The report shall include the following information:

(a) A list of generating units;:-

(b) A statement of whether each generating unit is owned by an end use customer, by the electric utility, by an affiliate of the electric utility, or by a nonaffiliated entity that is not an end use customer;:-

(c) A statement of whether or not the generator is dispatched by the control area operator or by the owner;:-

(d) The nameplate capacity of the generator, in megawatts or kilowatts;:-

(e) The nameplate capacity of the inverter (if applicable), in megawatts or kilowatts;

(f) Location of the generating unit;

(g) The fuel type used by each generating unit;:-

(h) The technology type of generating unit (e.g., fuel cell, turbine, diesel, photovoltaic, etc.);:-

(i) Date of interconnection.

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(B) Each electric utility shall file a quarterly report related to pending interconnection applications.

(1) The report shall include the following information:

(a) A list of generating units;

(b) Type of generation for which interconnection is being sought;

(c) Nameplate capacity for each generator, in megawatts or kilowatts;

The nameplate capacity of the inverter (if applicable), in megawatts or kilowatts;

(d) Location of the proposed interconnection;

Date of application; and

(e) Description of the status of each pending interconnection application in terms of process steps that have been completed and process steps that remain to be completed.

(2) Pending interconnection applications should not be removed from this quarterly report until an interconnection agreement is completed.

(C) The information contained in the reports provided to the commission and/or staff pursuant to paragraph (B) of this rule will be held as confidential.

(1) Any person may file a request for disclosure requesting disclosure of information filed pursuant to paragraph (B) of this rule. A request for disclosure must identify the information being sought and the report from which it is being sought. The party that filed the report containing the information being sought will be provided three business days' notice that information being held as confidential will be disclosed unless a motion for protective order is filed within three business days. To prevent disclosure, the party that filed the report containing the information being sought must file a motion for protective order consistent with rule 4901-1-24 of the Administrative Code within the three business days. If no motion for protective order is filed, the information being sought will be disclosed on the fourth business day after the notice of disclosure.

(2) All other information filed with the commission and/or staff will be deemed public pursuant to section 4905.07 of the Revised Code, unless accompanied by a motion for protective order consistent with rule 4901-1-24 of the Administrative Code.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio

Rule Contact Name and Contact Information:

Attention: Angela Hawkins, Legal Director
Phone: 614-466-0122 Fax: 614-728-8373
Angela.Hawkins@puco.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Ohio Adm.Code Chapter 4901:1-25 Market Monitoring

Rule Number(s): 4901:1-25-01, 4901:1-25-02, 4901:1-25-03

Date of Submission for CSI Review: 12/15/21

Public Comment Period End Date: 1/14/22

Rule Type/Number of Rules:

New/ 1 rule

No Change _____ rules (FYR? Yes)

Amended/ 2 rules (FYR? x)

Rescinded/_____ rules (FYR? ____)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies

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CSIPublicComments@governor.ohio.gov

should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

The proposed revisions to the rules in Ohio Adm.Code Chapter 4901:1-25 are in accordance with the State of Ohio’s 5-year rule review procedures. R.C. 119.032 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. The rules in Ohio Adm.Code Chapter 4901:1-25 set forth the provisions for the Commission’s market monitoring.

Staff’s proposed amendments to Ohio Adm.Code 4901:1-25-01 (Definitions) are primarily nonsubstantive. Terminology that is no longer used is deleted, cross references are inserted for terms that are defined in the Revised Code or Administrative Code; and a definition is added for “aggregated group,” because the term is used in this Administrative Code chapter but had not been defined.

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Regarding current Ohio Adm.Code 4901:1-25-02 (Market Monitoring – Reporting Requirements), Staff observes that electric distribution utilities (EDUs), electric service companies, electric cooperatives, and government aggregators must submit market monitoring data to the Commission. Staff proposes to eliminate such reporting requirements for electric service companies and electric cooperatives. For EDUs, Staff proposes that data concerning electric generation services include -- within the total amount of customers -- the subset of customers that are participating in green pricing programs, the billed revenue for green pricing programs, and the amount of green pricing program sales in megawatt hours.

Staff also proposes, within Ohio Adm.Code 4901:1-25-02, separating the market monitoring reporting requirement for each type of reporting entity, so that filers can better understand what information to submit. Specifically, quarterly filing requirements for EDUs will be contained in Ohio Adm.Code 4901:1-25-02(A)(1), while filing for power marketers and independent power producers will be contained in Ohio Adm.Code 4901:1-25-02(A)(2), and filing requirements for governmental aggregators will be contained in Ohio Adm.Code 4901:1-25-02(A)(3).

Staff proposes that reporting requirements currently contained in Ohio Adm.Code 4901:1-25-02(A)(2)(c) be moved into newly created Ohio Adm.Code 4901:1-25-03 (Distributed Generation – Reporting Requirements), because these reporting requirements differ from other reporting requirements in Ohio Adm.Code 4901:1-25-02. In addition, Staff inserts new language that requires reporting of the nameplate capacity of the inverter, if applicable, in megawatts or kilowatts; the location of the generating unit; and the date of interconnection. Finally, Staff proposes that interconnection applications that are pending should not be removed from the quarterly report until an interconnection agreement is completed, and that a party may file for disclosure of information in the market monitoring reports. Such information will be disclosed unless a motion for protective order is filed with, and approved by, the Commission.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule	Statutory Authority/Amplification Ohio Revised Code
4901:1-25-01	4928.06
4901:1-25-02	4928.06
4901:1-25-03	4928.06

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4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

This regulation implements state requirements. It does not implement a federal requirement. The state statutory authority for the rules is R.C. 4928.06.

5. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The rules contained in this chapter are intended to implement R.C. Chapter 4928, specifically R.C. 4928.06. The Commission believes that this regulation is necessary for the Commission to determine how Ohio's competitive retail electric market is functioning and to determine whether effective competition exists.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Commission will measure the success of these rules by the timeliness of required filings, and whether the filings contain all necessary information. Ohio Adm.Code Chapter 4901:1-25 specifically enables the Commission to measure the success of all of its regulations, as well as the regulations in the Revised Code.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Not applicable.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

A Commission Entry was issued April 23, 2021, indicating the date for a May 6, 2021 workshop. The Entry was served upon all electric distribution utility companies and

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competitive retail electric service providers, the Office of the Ohio Consumers' Counsel, and any other interested persons.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Commission conducted a workshop on May 6, 2021, to receive feedback from interested stakeholders and the general public. The case number for the Commission's review of Ohio Adm.Code 4901:1-25 is 21-478-EL-ORD. Two stakeholders provided comments at the workshop. The Commission will issue an Entry requesting written comments and reply comments to Staff's proposed rule amendments in order to receive additional stakeholder input.

11. What scientific data was used to develop the rules or the measurable outcomes of the rules? How does this data support the regulation being proposed?

No scientific data was provided or considered. However, Staff reviewed the stakeholder comments and used its experience with the rules for the development of its proposals.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Staff considered the comments provided by the stakeholders and made appropriate changes to Ohio Adm.Code Chapter 4901:1-25. The Commission may also consider additional amendments to this chapter following submission of written comments by stakeholders.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

The rules in Ohio Adm.Code Chapter 4901:1-25 define the required outcome and dictate the process for filing reports. The rules define the reports that must be filed with the Commission so that the Commission can adequately and effectively monitor Ohio's retail electric market. The rules also dictate the process of filing the reports and the requirements for compliance with the Commission's market monitoring rules.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Commission has reviewed other Ohio regulations and found no duplicates.

15. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Stakeholders’ first opportunity to comment on Chapter 4901:1-25 was in the aforementioned workshop held on May 6, 2021. Next, the Commission will issue an Entry indicating Staff’s proposed changes to this chapter and provide a period for written comments and reply comments from stakeholders and interested parties. This Entry will be served upon all electric distribution utility companies and competitive retail electric service providers, the Office of the Ohio Consumers’ Counsel, and any other interested persons. Upon completion of the rulemaking process and consideration of the submitted comments, any changes to Ohio Adm.Code Chapter 4901:1-25 will be attached to the Commission’s Finding and Order and served upon the same parties listed above. At that time, any interested party may also file for rehearing of the Commission’s decision.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

Amended Ohio Adm.Code 4901:1-25-02 indicates that the rules in Ohio Adm.Code Chapter 4901:1-25 apply to each electric utility, independent power producer, and governmental aggregator subject to certification under R.C. 4928.08.

b. Identify the nature of all adverse impacts (e.g., fees, fines, employer time for compliance); and

The proposed revisions were drafted in an effort to minimize any adverse impact on business, while implementing the provisions of R.C. 4928 and promoting the policies of the state of Ohio in R.C. 4928.02. There are no license fees, fines, or fee schedules contained in the rules. However, the Commission recognizes that compiling reports and filing them with the Commission may require time for compliance. The Commission has drafted the rules in an effort to streamline the reporting process to decrease the amount of time necessary to compile and file the reports, and has tried to decrease any costs that may be imposed to comply with Ohio Adm.Code Chapter 4901:1-25.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a

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“representative business.” Please include the source for your information/estimated impact.

The Commission has identified no adverse impact to be expected from the rules in Ohio Adm.Code Chapter 4901:1-25 or Staff’s proposed revisions to the rules. The rules provide the Commission with data and reports to effectively monitor the competitive retail electric market in Ohio

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission does not believe that these rules provide an adverse impact on business, and if any adverse impact does exist, it is justified by the regulatory requirement to comply with the R.C. 4928.06 and the policy of R.C. 4928.02.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The rules in amended Ohio Adm.Code Chapter 4901:1-25 will apply to each electric utility, independent power producer, and governmental aggregator subject to certification under R.C. 4928.08. The Commission notes that amended Ohio Adm.Code 4901:1-25-02(E) indicates that the Commission may, upon an application or a motion filed by a party, waive any requirement of the chapter, other than a requirement mandated by statute, for good cause shown.

19. How will the agency apply R.C. 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Amended Ohio Adm.Code 4901:1-25-02(E) indicates that the Commission may, upon an application or a motion filed by a party, waive any requirement of the chapter, other than a requirement mandated by statute, for good cause shown.

20. What resources are available to assist small businesses with compliance of the regulation?

Commission staff works with small businesses to ensure compliance with the rules. In Commission Case No. 21-478-EL-ORD, stakeholders and the general public, including small businesses, were invited to participate in a workshop to explain to Commission Staff potential revisions to the rules to decrease or eliminate any negative effects on business. Small businesses may contact Commission Staff at any time and may comment on the proposed no-change rules during the open comment period, which began when the proposed rules were released via Commission Entry.

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in

Case No(s). 21-0478-EL-ORD

Summary: Entry directing all interested persons or entities to file comments no later than January 7, 2022, and reply comments no later than January 14, 2022, with the Commission regarding its proposal to amend Ohio Adm.Code 4901:1-25-01 and 4901:1-25-02 and create new Ohio Adm.Code 4901:1-25-03, regarding electric service generation market monitoring reporting requirements electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio