

**BEFORE
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

OHIO POWER COMPANY’S REPLY COMMENTS

Overall, Ohio Power Company (AEP Ohio) supports the rule changes proposed by Staff. For clarity, however, there is an inconsistent use of the terms “file” and “submit” in the proposed rules that should be corrected. Generally, the Commission’s rules in the Ohio Administrative Code (OAC) consistently distinguish between a filing with the Commission’s Docketing Division in formal proceedings and an informal submittal to Staff that is not docketed. For example, Division (A)(4) of OAC 4901-1-02 (entitled “Filing of pleadings and other documents”) categorically provides that “no document shall be considered filed with the commission until it is received and date-stamped by the docketing division.”

By contrast, the Commission’s rules generally use the term “submit” when referring to documents and reports sent to Staff without being docketed. *See e.g.*, OAC 4901:1-6-35 (“submit” FCC reports to Staff); OAC 4901:1-10-11 (“submit” circuit performance reports to Staff); OAC 4901:1-10-20 (“submit” anti-tampering plans to Staff); OAC 4901:1-10-31 (“submit” environmental disclosure reports to Staff). Indeed, the Commission Entry in this docket here uses the term “submit” and some of the proposed rule language uses the term “submit.” *See* Entry at ¶¶ 7-8; OAC 4901:1-25-02(A) (utilities should “submit market

monitoring data” to Staff); OAC 4901:1-25-02(A)(3) (“submit to staff” the data). Similarly, OAC 4901:1-25-02(B) and (C) refer in some places to the reports being “provided” to Staff.

But divisions (A)(1) and (A)(2) of proposed OAC 4901:1-25-02 (Rule 2) now say to “file” the quarterly reports – when they should say “submit” the reports. In addition, division (B)(1) of Rule 2 contains three references to the reports being “filed” when those references should say “submitted” or “provided.” Division (B)(1) of Rule 2 also says any person can “file” a request for disclosure, when it apparently is referring to an informal request “submitted” to Staff. Please note that division (B)(1)’s reference to a motion for protective order being “filed” is correct and should remain, since that contemplates a docketed motion for protection.

And division (B)(2) of Rule 2 also refers to information “filed” under the rule when it is ostensibly referring to information “submitted.” Finally regarding Rule 2, division (C) contains the following confusing sentence (emphasis added): “These reports shall be *provided* to the commission and to staff annually with the third quarterly reports *filed* pursuant to paragraph (A)(1) of this rule.” For clarity and consistency, the reference to “filed” should be changed to “submitted” or “provided.”

New Rule 3 (OAC 4901:1-25-03) also has similar inconsistencies. Divisions (A) and (B) require electric utilities to “file” quarterly reports when they should require electric utilities to “submit” the reports. Division (C) and (C)(1) properly refer to the reports being “provided” but then (C)(2) uses the term “file” when it should use “submit.”

CONCLUSION

In sum, because OAC 4901-1-02 defines filing as being docketed, the language in these rules should be clarified as indicated above. AEP Ohio appreciates the opportunity to file these Reply Comments.

Respectfully submitted,

/s/ Steven T. Nourse

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Reply Comments* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 7th day of January, 2022, via electronic transmission.

/s/ Steven T. Nourse

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Summary: Comments Reply Comments electronically filed by Mr. Steven T. Nourse
on behalf of Ohio Power Company