

**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

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION¹

In an Entry issued on December 15, 2021, the Public Utilities Commission of Ohio published proposed rule changes to Chapter 4901:1-25. The changes would clarify some reporting requirements, eliminate reporting requirements for competitive retail electric supply providers that do not take title to power in transactions they broker, and increase reporting requirements by electric distribution utilities concerning distributed electric resources. While the proposed changes are a move in the right direction, the Commission should also revise the reporting requirements to mandate annual rather than quarterly reporting for those competitive suppliers that remain under an obligation to file market reports.

Background

Under division (F) of R.C. 4928.06, the Commission has the authority to direct electric utilities, electric service companies, electric cooperatives, and governmental aggregators that are certified to provide the Commission "such information, regarding a competitive retail electric

¹ The statements expressed in this filing represent the position of the Retail Energy Supply Association as an organization, but may not represent the view of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service to retail, residential, commercial, and industrial customers. More information on RESA can be found at www.resausa.org.

service for which it is subject to certification, as the commission considers necessary to carry out” Chapter 4928 of the Revised Code. Rule 4901:1-25-02 sets out the reporting requirements that the Commission has adopted and proposes to revise in this proceeding.

Under the current reporting rule, the Commission requires electric distribution utilities, electric service companies, electric cooperatives, and government aggregators to make quarterly filings. The reporting requirements vary by entity. Rule 4901:1-25-02(A)(2), (3), and (4). In the case of power brokers, i.e., those that do not take title to power sold to retail customers, the reporting is confined to a representation that they are not involved in any transactions that would be reported by those companies that take title to power. See Quarterly Market Monitoring Report-Power Brokers, viewed at https://puco.ohio.gov/wps/wcm/connect/gov/9a234f4b-265f-438d-b1c4-9bbbdd9cc15a/Brokers_MM_Form_10.17.18_NEWForm.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_K9I401S01H7F40QBNJU3SO1F56-9a234f4b-265f-438d-b1c4-9bbbdd9cc15a-nBCpSBE (last viewed Dec. 21, 2021).

Elimination of some reporting requirements is reasonable

The changes to Chapter 4901:1-25 are largely non-substantive revisions intended to clarify them. One change, however, is substantive. In apparent recognition that the quarterly reporting requirements for many competitive suppliers adds little to the determination of the current state of competition in the retail electric market, draft Rule 4901:1-25-02(A)(2) would limit quarterly reporting by non-utility electric competitive electric service providers to power marketers and independent power producers that sell a portion of their production to retail customers. Entry, Attachment A at 3 and 6 and Attachment B at 3.

Under the current rules, the reporting requirements are often nothing more than a reiteration that the broker lacks any generation resources or is not taking title to power. In effect, these reporting requirements are not much more than repetitive administrative overhead. (The CSI report suggests as much. Entry, Attachment B at 6.) Moreover, there is nothing to suggest that these entities can exercise market power that the Commission is to assess under R.C. 4928.06. Nor will the Commission be left in the dark if the supplier changes its operations. If the supplier becomes a power marketer or independent power producer, the proposed rule would require the supplier to file a report with the Commission because of its changed status. Thus, it makes sense to eliminate the largely pro-forma requirements for many competitive electric suppliers to report quarterly, as is required in the current rules.

Eliminating quarterly reports in favor of annual reports is reasonable

The proposed rules retain a requirement to file quarterly. Entry, Attachment A at 3 and 6. The controlling statute, however, does not require any reporting interval, and there is nothing in the materials supplied by the Commission or in the experience of competitive suppliers suggesting that quarterly reporting serves any particular purpose. The reporting requirements nonetheless are an overhead cost that competitive suppliers must absorb. Because there is not any compelling reason for continuing quarterly reporting requirements, Rule 4901:1-25-02 should be amended to provide for annual reports.

The proposed changes to the rule are provided below:

- (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 an annual 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~~ an annual report that contains information which includes, but is not limited to, the following:

* * *

(2) Each power marketer and independent power producer shall file an annual report that contains information which includes, but is not limited to, the following:

* * *

(43) Each ~~certified aggregator and certified~~ governmental aggregator shall submit to staff on a ~~quarterly~~ an annual 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:

Conclusion

Accordingly, the Commission should adopt the recommended rule changes to reduce the reporting requirements of competitive suppliers.

Respectfully submitted,

/s/ Frank P. Darr

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the Commission's e-filing system will electronically serve notice of the filing of this document upon the interested parties, this 7th day of January 2022.

/s/ Frank P. Darr

Frank P. Darr

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Summary: Comments Comments of the Retail Energy Supply Association
electronically filed by Frank P. Darr on behalf of Retail Energy Supply Association