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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Commission's Review )  
Of its Rules for Market Monitoring, )  
Chapter 4901:1-25 of the Ohio )  
Administrative Code. )

Case No. 02-1411-EL-ORD

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**COMMENTS OF THE OHIO CONSUMERS' COUNSEL**

Robert S. Tongren in his capacity as the Ohio Consumers' Counsel ("OCC") hereby files comments on the Staff's proposed revisions to the Rules for Market Monitoring, Chapter 4901:1-25 of the Ohio Administrative Code.

**I. Staff's Proposed Revisions**

Each of the Staff's three proposed revisions is appropriate and rectifies deficiencies in the current rules. Specifically, the revisions will better identify and focus upon the degree to which choice is available for all groups of consumers in Ohio.

First, the Staff has proposed that under Rule 4901:1-25-02(A)(2)(b) that Electric Distribution Companies ("EDUs") be required to report not just monthly peak system data, but that the data be reported for each rate schedule. This information will identify the degree to which different classes of customers impose costs upon the system. This information can be compared to the competitive prices available to the different classes of customers to determine the degree to which competitive prices reflect costs of service. The degree to which competitive prices reflect cost of service is an indication as to how well the market is functioning. For example, this information will likely reveal the degree to which price signals are effectively communicated to customers. For this reason,

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Staff's proposed amendment will provide information that will be useful and is not available under the current rules.

Second, the Staff has proposed that Rule 4901:1-25-02(A)(3) be revised to clarify that certified competitive retail electric service providers ("CRES providers") be required to provide all their market monitoring information by service territory rather than statewide. This proposed amendment corrects a significant deficiency in the rules. As each service territory currently represents a separate market, the reporting of statewide information does not reveal the relative competitiveness of the markets. It is critical that this proposed revision be adopted.

Third, the Staff proposed that Rule 4901:1-25-02(A)(3)(c) be revised to require CRES providers to report revenues by class schedule. This amendment is helpful in that it will reveal whether suppliers are serving only certain customers and whether choice is available to all customer classes. Combined with the information the Commission will obtain under the Staff's first proposed revision, this information will identify the degree to which customers who are more costly to serve are getting shopping opportunities. For these reasons, this proposed amendment should also be adopted.

## **II. OCC's Proposed Revision**

Under Rule 4901:1-25-02(A)(3) and (A)(4) the CRES providers and aggregators are required to submit quarterly reports to the Commission Staff regarding their CRES sales and revenues. Each of these rules specifies that the information contained in these reports is confidential. While the information may be confidential, the information is important to OCC because OCC has the responsibility to advocate on behalf of residential electric customers. Without the information, it is difficult for OCC to know

the number of suppliers who are serving residential customers and ultimately the degree to which choice is available to residential customers. For that reason, without the information it is difficult for OCC to advocate for residential customers before the Commission. Without OCC's input residential customer interests are not adequately represented.

Moreover, the reason such CRES provider information is treated as confidential is to prevent the improper use of such proprietary information by competitors. Because OCC has no affiliation with CRES competitors OCC should be provided such information with the execution of an appropriate confidentiality agreement.

In order to implement this proposal, the last paragraph in Rule 4901:1-25-02 (A)(3) should be revised to read:

The information contained in the report submitted to commission staff pursuant to paragraph (A)(3) of this rule is confidential information. HOWEVER, THIS INFORMATION MUST BE PROVIDED TO OCC SUBJECT TO OCC ENTERING INTO AN APPROPRIATE CONFIDENTIALITY AGREEMENT WITH THE CRES PROVIDER.

In addition Rule 4901:1-25-02(A)(4) should be revised to read:

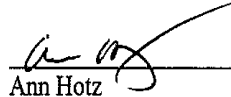
The information contained in the report submitted to commission staff pursuant to paragraph (A)(4) of this rule is confidential information. HOWEVER, THIS INFORMATION MUST BE PROVIDED TO OCC SUBJECT TO OCC ENTERING INTO AN APPROPRIATE CONFIDENTIALITY AGREEMENT WITH THE CRES PROVIDER.

### **III. Conclusion**

OCC appreciates the opportunity to submit comments in this docket and respectively urges the Commission to adopt the Staff's proposed amendments and OCC's proposed amendment for the reasons stated above.

Respectfully submitted,

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