

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Prom-)
ulgation of Amendments to the Electric) Case No. 99-1613-EL-ORD
Service and Safety Standards Pursuant to)
Chapter 4928, Revised Code.)

ENTRY ON REHEARING

The Commission finds:

- (1) On December 7, 1999, the Commission formally initiated this proceeding in order to establish procedures for ensuring minimum service quality, safety, and reliability requirements for noncompetitive retail electric services pursuant to recently enacted Chapter 4928, Revised Code. On December 21, 1999, the Commission issued the following staff proposals: 1) amendments to the Commission's existing Electric Service and Safety Standards (hereinafter ESSS); 2) new provisions for Energy Emergencies; and 3) a new chapter on Uniform Electric Transmission and Distribution Interconnection Standards.
- (2) On April 7, 2000, the Commission issued a Finding and Order in this matter and adopted the proposed amendments to the ESSS rules, the new Energy Emergency provision, and the new chapter on Uniform Electric Transmission and Distribution Interconnection Standards.
- (3) Between May 5, and May 8, 2000, the Commission received eight applications for rehearing from: 1) Sustainable Energy for Economic Development of Ohio (hereinafter SEED); 2) Office of Consumers Counsel (hereinafter OCC); 3) Ohio Environmental Counsel (hereinafter OEC); 4) Cincinnati Gas and Electric (hereinafter CG&E); 5) Dayton Power and Light (hereinafter DP&L); 6) FirstEnergy Corp. (hereinafter FirstEnergy); 7) Ohio Power Company and Columbus Southern Power (hereinafter AEP); and 8) Local Union Nos. 175 and 270, Utility Workers Union of America, AFL-CIO (hereinafter UWUA).
- (4) In accordance with Rule 4901-1-35, O.A.C., between May 15, and May 18, 2000, the following five entities filed memoranda contra applications for rehearing (hereinafter memorandum contra): 1) FirstEnergy; 2) Unicom Energy

Services; 3) SEED; 4) OCC; and 5) DP&L. In addition, AEP, DP&L, and FirstEnergy filed separate memoranda contra UWUA's application for rehearing (hereinafter memorandum contra UWUA).

- (5) Section 4903.10, Revised Code, states that any party to a Commission proceeding may apply for rehearing with respect to any matter determined in that proceeding, but such an application must be filed within 30 days following the entry of the order in the Commission's journal. The Commission finds that through their filing of comments in the above-captioned case SEED, OCC, OEC, CG&E, DP&L, FirstEnergy, AEP, and UWUA have entered appearances in the case.
- (6) On June 1, 2000, the Commission issued an Entry on Rehearing granting rehearing for the limited purpose of granting the Commission more time to consider the issues. This second entry on rehearing addresses the specific issues contained in the applications for rehearing.
- (7) The Commission finds that some of the arguments raised in the applications for rehearing are similar or identical. Therefore, we will group the arguments together under underlined headings. First, we will consider the assignments of error related to our conclusions on the ESSS rules. Then we will turn our attention to the assignment of error concerning the new chapter on Uniform Electric Transmission and Distribution Interconnection Standards.

ESSS RULES

- (8) In this section, the Commission will entertain applications for rehearing addressing the following sections of the ESSS rules: 1) purpose and scope; 2) metering; 3) notification of customer rights and obligations; 4) customer complaints and complaint handling procedures; 5) customer billing and payments, customer usage records, and customer notices; 6) landlord/tenant notice; 7) reporting requirements; 8) inspection, maintenance, repair, and replacement of transmission and distribution facilities; 9) net metering; 10) coordination with competitive retail electric service (hereinafter CRES) providers; and 11) environmental disclosure. The first topic we will address is the purpose and scope provisions contained in Rule 4901:1-10-01, O.A.C.

Purpose and Scope

- (9) AEP's first allegation of error is that Rule 4901-10-01(B) and (D)(1), O.A.C., will allow the Commission to intrude into areas that are preempted under federal law. We find AEP's concerns to be unfounded. As we discussed in our April 7, 2000, Finding and Order in this docket: "Our rule does not conflict with any FERC Order, since our exercise of authority is limited to the safety and maintenance of transmission facilities located in Ohio." Finding and Order at 2. In this Entry on Rehearing, we further assure AEP that we do not intend to violate the Supremacy Clause of the United States Constitution. Therefore, the Commission denies AEP's application for rehearing on this issue.
- (10) FirstEnergy contends that the Commission erred in its promulgation of Rule 4901:1-10-01(F), O.A.C., by excluding Rule 4901:1-10-27, O.A.C., from the rebuttable presumption of adequate service. FirstEnergy believes that a rebuttable presumption of adequate service has been established if an electric distribution company (hereinafter EDC) complies with its maintenance practices, which were reviewed and accepted by the Commission. In its memorandum contra, OCC argues that the rebuttable presumption provision should not apply to EDCs' maintenance, repair, and replacement practices; especially, in light of the fact that the EDCs will be under rate caps during the market development period. Since we are not subjecting the maintenance, repair, and replacement practices to public comment or hearing, we do not believe that it is appropriate to grant a rebuttable presumption of adequate service. Accordingly, we deny FirstEnergy's application for rehearing on this issue.

Definitions

- (11) The Commission, *sua sponte*, finds that a definition of "microturbine" needs to be added to the definition section of the ESSS rules to promote continuity with the CRES rules in Case No. 99-1611-EL-ORD, *In the Matter of the Commission's Promulgation of Rules for Minimum Competitive Retail Electric Standards Pursuant to Chapter 4928, Revised Code*. In new paragraph (M), we define "microturbine" as "a combustion turbine with a peak generating capacity of 100 kV or less."

Metering

- (12) AEP makes three allegations of error concerning the Commission's metering rules. First, AEP urges the Commission to eliminate the requirement in Rule 4901:1-10-08(I), O.A.C., that a customer may request an actual meter read at the beginning and end of service. OCC argues, in its memorandum contra, that customers should be notified that EDCs rely on estimated reads, and that the customers have a right to obtain an actual read. After considering AEP's allegation of error, the Commission denies AEP's application for rehearing on this issue. Furthermore, we believe we have adequately addressed OCC's concerns by including Rule 4901:1-10-12(J), O.A.C., which requires the EDC to notify the customers that they have the right to an actual meter reading at the beginning and end of service.
- (13) AEP's second allegation of error is that Rule 4901:1-10-05(E), O.A.C., is not supported by any rationale for the blanket requirement to have a "licensed" electrician inspect a customer's service equipment prior to providing service and may cause additional cost and delay service. Similarly, FirstEnergy complains that the rule excludes certified electrical safety inspectors. We agree. Therefore, the Commission has deleted the requirement of a "licensed" electrician from Rule 4901:1-10-05(E), O.A.C.
- (14) AEP's complains that Rule 4901:1-10-05(G), O.A.C., requires the meter owner to place this name on its meters indicating ownership, without providing a specific waiver permit process. The Commission intentionally did not include a waiver process in the rule. AEP and the other companies that do not put its name on its meters will need to apply for a waiver to this rule. The process of applying for a waiver is no different than any other waiver request filed at the Commission. Therefore, the Commission finds that AEP's application for rehearing pertaining to this issue is denied.

Notification of Customer Rights and Obligations

- (15) OCC states that the Commission erred in not providing customers with more protections from unwanted telemarketing calls. OCC requests that the Commission grant rehearing and modify Rule 4901:1-10-12(F), O.A.C., to require

the EDC's customer rights and obligations notice to include the telephone number that a customer can call to be placed on the "do-not-call" list. In its memorandum contra, FirstEnergy agrees with OCC that the quarterly notice should include the telephone number of the Direct Marketing Association's "do not call" list.

We believe that in light of FirstEnergy's suggestion, clarification of our intent is necessary. FirstEnergy is mistaken that the Direct Marketing Association will administer the "do not call" list. The Commission will maintain and distribute the "do not call" list. As noted in the Entry on Rehearing issued in Case No. 99-1611-EL-ORD, *In the Matter of the Commission's Promulgation of Rules for Minimum Competitive Retail Electric Service Standards Pursuant to Chapter 4928, Revised Code*, a subsequent entry will be issued informing CRES providers on how to obtain the "do not call" list. Furthermore, we deny OCC's request for rehearing on this issue. While we agree with OCC that customers should receive notice of the "do not call" list, at this date the mechanics of the "do not call" list are not in place. Therefore, we will address the customer notice in a later entry.

- (16) AEP requests that the Commission modify Rule 4901:1-10-12(F), O.A.C., to exempt commercial collection and credit reporting companies and low-income/public assistance agencies from the prohibition on disclosing customer information. In its memorandum contra, OCC asserts that the Commission should always require EDCs to obtain the customer's affirmative consent before releasing social security or account numbers to other parties. We grant AEP's application for rehearing on this issue. On rehearing, we find that Rule 4901:1-10-12(F)(1), O.A.C., already addresses low-income/public assistance agencies by including the exemption for Percentage of Income Payment Plan (hereinafter PIPP) aggregation. Furthermore, we have added an exemption for commercial collection and credit reporting companies. We note that since the commercial collection and credit reporting companies are required by law to comply with the Fair Credit Reporting Act, there is no need for the EDC to obtain the customer's permission before disclosing the customer information to a PIPP aggregator or a commercial collection and credit reporting company.

- (17) OCC asserts that the Commission should modify Rule 4901:1-10-12(G), O.A.C., to require that the EDU's list of available CRES providers and the CRES providers' telephone numbers identify the customer class served by each CRES provider on the list. In their memorandum contra, FirstEnergy argues that CRES provider lists should identify the customer class that the CRES providers will serve; however, FirstEnergy is opposed to placing the responsibility of updating the list on the EDC, unless the Commission so orders. FirstEnergy suggests that the Commission include the information when we advise EDCs that a supplier has been certified to provide service in the EDC's service territory.

We believe it will be useful for customers to know which customer classes each CRES provider serves. Such information would save residential customers the wasted effort of calling CRES providers who do not serve the residential class. Hence, we have modified Rule 4901:1-10-12(G), O.A.C. to adopt OCC's position. In addition, while we do not believe that the rule needs to be modified to address FirstEnergy's concern, we find FirstEnergy's request to be reasonable. Therefore, we will provide the information to the EDC when we notify the EDCs of the identity of the certified CRES providers.

- (18) AEP asserts that the Commission should clarify Rule 4901:1-10-12(H), O.A.C., to state that the EDC may seek recourse from the CRES provider for switching costs under certain circumstances. Although the Commission agrees that in some instances the EDC should be allowed to seek recourse from the CRES provider for switching costs, we do not believe it is warranted for such language to appear in a customer bill of rights. Moreover, we do not believe that the amounts of slamming costs will be significant enough to deal with on a case by case basis.
- (19) AEP notes that the rules concerning disconnection notice for nonpayment by residential and nonresidential customers are inconsistent. AEP requests that Rule 4901:1-10-17, O.A.C., be modified to include the following: 1) failure to pay charges for nontariffed products or services may result in loss of those products or services; and 2) failure to pay charges for CRES may result in cancellation of the customers contract with the CRES provider, and return the customer to the EDC's standard offer generation. We agree. Therefore, we

have modified Rule 4901:1-10-17, O.A.C., to become consistent with Rule 4901:10-19, O.A.C.

Customer Complaints and Complaint Handling Procedures

- (20) OCC requests rehearing on Rule 4901:1-10-21, O.A.C., to require the EDCs to provide the same information and reports to the OCC that are provided to the Commission. In its memorandum contra, FirstEnergy opposes OCC's request based on the fact that OCC fails to offer any basis for such a requirement. In addition, FirstEnergy argues that OCC is basically trying to reopen the arguments resolved by the Commission in Case No. 97-1578-EL-ORD, *In the Matter of the Adoption of Minimum Electric Service Standards, Chapter 4901:1-10 of the Ohio Administrative Code*. This issue has been previously considered by the Commission. Moreover, SB 3 does not contain such a requirement. Therefore, the Commission denies OCC's application for rehearing on this issue since SB 3 does not so require, and OCC has failed to establish a rationale for so requiring.
- (21) FirstEnergy asserts that the Commission should allow an EDC to recover all costs related to the supplier's slamming activities from the supplier's financial instrument. The Commission disagrees. Rule 4901:1-24-08, O.A.C., provides that:

...an EDU may require a retail electric generation service provider to issue and maintain a financial instrument with the EDU to protect the EDU in the retail electric generation service event that the provider fails, in whole or in part, to deliver contracted retail generation service to a customer for which the EDU supplied to the customer in its capacity as default supplier.

FirstEnergy's request goes well beyond the scope of Rule 4901:1-24-08, O.A.C. Hence, it is denied.

Customer Billing and Payments; Customer Usage Records; Customer Notices

- (22) AEP, CG&E, and DP&L request that the Commission modify Rule 4901:1-10-22(A)(19), O.A.C., to allow PIPP information to stay on bills by revising the rule to replace "Universal Service

Rider” with “PIPP.” We agree that this is appropriate. Therefore, we have replaced “Universal Service” references in Rules 4901:1-10-22 and 4901:1-10-12, O.A.C., with “Percentage of Income Payment Plan.”

- (23) AEP and CG&E assert that the Commission should eliminate the requirement in Rule 4901:1-10-22(A)(23), O.A.C., that EDCs report the prior usage for each of the proceeding 12 months on customers’ bills. In its memorandum contra, OCC points out that such a requirement has proven helpful in the Columbia Gas Choice Program. We agree with OCC that twelve month prior usage information has proven extremely useful to customers in Columbia’s Gas Choice Program. On the other hand, we also understand that the EDCs may have programming issues that will require time to address. Therefore, we are retaining the rule as promulgated, but setting the effective date of Rule 4901:1-10-22(A)(23), O.A.C., as January 1, 2002.
- (24) AEP, DP&L and FirstEnergy request that the Commission clarify whether, under Rule 4901:1-10-22(D)(5), O.A.C., customers’ telephone numbers should be included in eligible-customer lists. In the April 7, 2000, Finding and Order in the above captioned docket, we stated that “[w]e have continued our attempt to protect consumers’ realistic expectations of privacy by omitting references to customer telephone numbers from the final rule.” Finding and Order at 14. Unfortunately, we failed to remove the telephone number reference from Rule 4901:1-10-22(D)(5), O.A.C. To correct this oversight, we are removing the words “telephone number” from the required customer notice in Rule 4901:1-10-22(D)(5), O.A.C.
- (25) CG&E and DP&L request that the Commission reconsider Rule 4901:1-10-22(I), O.A.C. CG&E believes the existing requirements create uncertainty regarding the partial-payment distribution order for other non-CRES non-regulated charges. DP&L believes the prescribed partial-payment distribution order would not allow payments to be applied to the customers oldest regulated debt. The Commission grants CG&E and DP&L’s applications for rehearing on this issue. We agree that distribution and standard offer charges can be combined since the Commission regulates them both. We also agree that to avoid unnecessary service disconnection, partial payments

should be applied toward prior distribution and transmission charges before current distribution and transmission charges. We reject DP&L's assignment of error to apply partial payments to prior CRES provider charges before current distribution charges. Such action could lead to unnecessary disconnection. On rehearing, we are revising the partial payment order as follows: 1) prior distribution, standard offer generation, and transmission charges; 2) current distribution, standard offer generation, and transmission charges; 3) prior CRES provider charges; 4) current CRES provider charges; and 5) other prior and current non-regulated charges. Rule 4901:1-10-22(I), O.A.C., has been revised accordingly, in part, to become consistent with CRES Rule 4901:1-21-14(F)(3), O.A.C.

Landlord/Tenant Notice

- (26) FirstEnergy claims that Rule 4901:1-10-25(A)(2), O.A.C., should be modified to reflect the actual notice period utilized by the individual electric utility. When staff issued its proposed rule, none of the parties, including FirstEnergy, chose to comment on the proposed rule. At this late date, we do not believe that the standardized "ten-day notice period" is unreasonable. FirstEnergy has not established that the ten-day requirement is overly burdensome. Therefore, the Commission denies FirstEnergy's request for rehearing.

Reporting Requirements

- (27) AEP asserts that the references to "operating areas" in Rule 4901:1-10-26(B)(3) and (B)(3)(b), O.A.C., should be changed to "service territory." We agree.
- (28) DP&L asserts that the Commission erred in requiring reporting on the age of equipment by operating area in Rule 4901:1-10-26(B)(3), O.A.C. DP&L asserts that the rule should clarify the definition of "facility type." The Commission denies DP&L's request for rehearing. The final rule contains possible options in arriving at an estimated average age of equipment to help in easing the burden of calculating the age of the equipment. The Commission believes that it is essential to know the average age of the equipment to trend relationships between the EDCs who have experienced high rates of equipment failure and the age of the equipment in question.

- (29) DP&L requests rehearing on Rule 4901:1-10-26(B)(3)(b), O.A.C. Specifically, DP&L believes that reporting on the number of a substance of customer complaints is unreasonable. Conversely, OCC points out in its memorandum contra that since EDCs' rates are capped during the transition period, the Commission should closely monitor the practices of the EDCs by reviewing the complaints that EDCs report to the Commission. We do not believe that it is overly burdensome for the EDCs to include an "overview" of the number and substance of customers' safety and reliability complaints in the annual report. Therefore, the Commission denies DP&L's application for rehearing.
- (30) DP&L requests rehearing on Rule 4901:1-10-26(B)(4), O.A.C., to consider a revision to specify reporting requirements in greater detail on both reliability and voltage measurement. DP&L did not provide the Commission with any specific suggestions on what details concerning reliability and measurement are needed. After careful consideration, the Commission denies DP&L's application for rehearing on this issue.

Inspection, Maintenance, Repair, and Replacement of Transmission and Distribution Facilities

- (31) UWUA requests rehearing on two matters associated with Rule 4901:1-10-27, O.A.C. First, UWUA requests that the Commission reverse itself, and adopt staff's proposed Version 1 of the rules pertaining to the inspection, maintenance, repair and replacement of transmission and distribution facilities. In the individual memoranda contra UWUA, AEP, DP&L and FirstEnergy argue that Version 1 is too costly. Moreover, DP&L asserts that Version 2 as adopted provides needed flexibility. For these reasons, we deny UWUA's first request for rehearing.
- (32) UWUA requests rehearing on Rule 4901:1-10-27, O.A.C., on the basis that the rule fails to allow for input from affected public before the Commission and/or its staff accepts the EDUs' proposed inspection, maintenance, repair and replacement programs. In its memorandum contra UWUA, FirstEnergy asserts that it would be unduly burdensome to the Commission, staff, and the EDCs to have a hearing every time an EDC intends to modify its maintenance practices.

The Commission finds that UWUA's application for rehearing pertaining to this issue should also be denied.

Net Metering¹

- (33) AEP, DP&L and FirstEnergy request rehearing on the net metering provisions contained in Rule 4901:1-10-28, O.A.C. AEP requests clarification that: 1) Rule 4901:1-10-28, O.A.C., requires that a customer's meter register and measure the flow of electricity in both directions; and 2) net metering credit only applies to the generation component. DP&L claims that the rule, as promulgated, prevents an EDC from recovering its costs. FirstEnergy argues that the rule as written leads to: 1) confiscation of the EDC's property in violation of the constitution; 2) denial of the opportunity to recover costs associated with providing transmission and distribution service; 3) violates Section 4928.37, Revised Code, which prohibits discounting transition costs; 4) customers avoiding the payment of taxes and other government imposed charges; and 5) subsidization by all other customers. OEC and Unicom argue, in memorandum contra, that all 29 states that have adopted net metering policies have provided for netting of all charges on a kilowatt-hour basis, including transmission, distribution, and transition charges. OEC and Unicom argue that the EDCs will incur no additional costs as a result of net metering.

We rejected AEP's same argument in the April 7, 2000, Finding and Order in this docket. In its Initial Comments on staff's proposed net metering rules, AEP argued that customer-generators should incur wires charges. In promulgating the final rule, we stated that:

We do not believe that such was the intent of the legislature. Those other customers, who pay the electric utility for the service, use the electricity transported to other customers. Furthermore, it is the Commission's understanding that other generators do not incur such fees and therefore, the customer-generators should not incur wire and transport fees for the energy they place onto the distribution system.

¹ In addition to the discussion of net metering in the present case, the Commission also addresses net metering in Case No. 99-1611-EL-ORD, *In the Matter of the Commission's Promulgation of Rules for Minimum Competitive Retail Electric Service Standards Pursuant to Chapter 4928, Revised Code*.

Finding and Order at 19. Basically, we find that AEP is repackaging the same argument here. We deny AEP, DP&L, and FirstEnergy's applications for rehearing on this issue.

- (34) AEP requests that the net metering rule be modified so that a single meter could register and separately record the flow of electricity in each direction. In its memorandum contra, Unicom argues that AEP's requested change is not necessary because a single meter can register the flow of electricity in each direction without separately documenting the flows; therefore, Unicom adds that the statutory requirement of a single meter is satisfied by Rule 4901:1-10-28, O.A.C. OEC adds that the existing rule allows the EDC to include a cost recovery mechanism in its net metering tariff. We agree with Unicom and OEC. Therefore, we deny AEP's application for rehearing.
- (35) FirstEnergy puts forth the argument that the net-metering mechanism should reflect the higher cost of energy required during peak usage periods. FirstEnergy expresses concern about providing netting for customers on real time pricing or interruptible tariffs. OEC agrees that real time pricing and interruptible tariffs create valid concerns. Although, we do not wish to mandate time-of-day metering, we do not want to preclude EDC's from recognizing the time-differentiated value of electricity, so long as that is done in a nondiscriminatory manner within the same rate class.
- (36) FirstEnergy asserts in its application for rehearing that the Commission should clarify Rule 4901:1-10-28(E)(4), O.A.C., that nothing in the net metering rule prevents EDCs from taking necessary safety precautions to protect employees and equipment from injury or damage caused by suppliers back feeding electricity into the system. After considering the merit of FirstEnergy's requested clarification, the Commission denies the application for rehearing on this issue in this docket. Instead, this is a matter that shall be addressed in the EDCs' interconnection tariff dockets.

The Commission also takes notice that the EDCs failed to comply with the Commission's order in the April 7, 2000, Finding and Order, in the above captioned docket, that each EDC must file interconnection tariffs, pursuant to Rule 4901:1-22-03(A), O.A.C., by May 8, 2000. While the

Commission understands that the EDCs waited to file their interconnection tariffs until after we issue this Entry on Rehearing, we must emphasize that if the EDCs fail to file the interconnection tariffs within 30 days of the issue of this Entry on Rehearing, those EDCs shall be found in violation of a Commission order.

Coordination with Competitive Retail Electric Service Providers

- (37) AEP assigns error to the Commission's promulgation of Rule 4901:1-10-29(F)(1)(d), O.A.C. AEP asserts that the rule exposes the EDCs to substantial meter reading expenses and does not further any Commission public policy goals. In its memorandum contra, OCC argues that the Commission should require the EDCs to provide actual meter reads at the beginning of service and at the end of service if requested by the customer. The Commission denies AEP's application for rehearing on this issue. We continue to believe that customers need to be aware that they need to specifically request an actual meter reading. The most effective way to inform customers is to include the information on the enrollment-confirmation notice that is mailed to the customer by the EDC.
- (38) FirstEnergy assigns error to rule 4901:1-10-29(F)(1) and (5), O.A.C. It asserts that the Commission should give EDCs two business days to send out the enrollment-confirmation notice. The Commission grants rehearing on this issue. On rehearing, the Commission finds that the one-business day deadline requirement contained in Rule 4901:1-10-29(F)(1) and (5), O.A.C., may cause unintended consequences. Therefore, we are revising the rule by adopting a two-business day deadline for sending out the enrollment-confirmation notice.
- (39) DP&L seeks clarification of Rule 4901:1-10-29(G), O.A.C. Specifically, DP&L requests clarification on whether a customer returning to the standard offer needs to make a deposit. The Commission finds that existing Rule 4901:1-10-14, O.A.C., addresses this issue. Therefore, the Commission denies rehearing on this issue.
- (40) AEP and DP&L assign error to the Commission's promulgation of Rule 4901:1-10-29(G)(2), O.A.C., because the rule imposes an unnecessary burden on the EDC and violates

deposit agreements. In OCC's memorandum contra, it argues that the Commission should require the transfer of excess deposits between EDCs and CRES providers as customers switch because it will facilitate switching and will not be unduly burdensome. The Commission grants rehearing on this issue. The Commission finds that paragraph (G)(2) should be deleted from the rule.

- (41) AEP requests clarification of Rule 4901:1-10-29(H), O.A.C. Namely, AEP is concerned that paragraph (H)(1) mandates that all EDCs must provide consolidated billing. In response, OCC states, in its memorandum contra, that the Commission should require EDCs to provide consolidated billing. While we agree with the OCC that consolidated billing can foster the development of a competitive market, we did not intend to stifle other instruments that can equally foster the development of a competitive market.

The rule as promulgated was not intended to limit creativity. In fact, the Commission encourages flexible approaches, such as supplier consolidated billing, where appropriate. The Commission notes that there are two types of consolidated billing. First, consolidated billing can be performed by the EDC. Secondly, suppliers can perform the equivalent of consolidated billing. In its application for rehearing, AEP states that "during the recent operation support workshops for electric restructuring at the Commission, participants have expressed satisfaction with the understanding that the AEP companies will permit CRES providers to do consolidated billing."

In its memorandum contra, OCC points out potential problems with allowing CRES providers to provide consolidated billing. Namely, OCC states that such an approach could be a barrier to entry for the smaller CRES providers, which may not have billing capability. We believe that OCC has raised a valid concern. Therefore, we are not modifying Rule 4901:1-10-29(H), O.A.C. If AEP chooses to pursue the supplier version of consolidated billing, then AEP can file a waiver request with the Commission. We encourage any EDC contemplating such a waiver request filing to work with the staff and marketers to address OCC's concern about such a program being a barrier to entry.

- (42) FirstEnergy requests clarification of Rule 4901:1-10-29(H), O.A.C., to reflect that consolidated billing service shall be made available by EDC tariff with appropriate charges. OCC states in its memorandum contra that the EDC should only be allowed to charge CRES providers for consolidated billing only to the extent they incur new additional costs that have not already been recovered through transition charges or other means. The Commission grants rehearing on this issue. On rehearing, we clarify that if the EDC offers consolidated billing², then it is a matter that must be tarified.
- (43) FirstEnergy and DP&L assign error to Rule 4901:1-10-29(H)(2), O.A.C., which requires the EDC to provide budget billing. FirstEnergy and DP&L argue that the Commission should defer judgment on budget billing until associated programming can be completed. Conversely, OCC argues, in its memorandum contra, that the Commission should require EDCs to budget bill for CRES providers in order to facilitate competition. The Commission grants rehearing on this issue. The Commission notes that not all CRES providers wish the EDCs to provide budget billing. In fact, CRES providers have indicated that they can bill a customer a fixed amount each month; we are satisfied that this billing arrangement is sufficiently close enough to our vision of budget billing to be effective. Again, we will entertain motions for waivers from this rule.

Environmental Disclosure Rules

- (44) AEP, DP&L and FirstEnergy assign error to the Commission's finding and promulgation of Rule 4901:1-10-31, O.A.C, which requires the EDCs to comply with the environmental disclosure requirement. FirstEnergy claims that Section 4928.10, Revised Code, makes clear that environmental disclosure is only required of CRES providers. Moreover, in its memorandum contra, DP&L asserts that the Commission erred in its statutory interpretation of Section 4928.10, Revised Code; DP&L requests that the Commission reconsider Rule 4901:1-10-31, O.A.C., and read Section 4928.10, Revised Code, *in pari materia*. Conversely, OCC and OEC support the rule. In its memorandum contra, OEC states that the General Assembly intended default providers to be

² The only circumstance that an EDC is not required to provide consolidated billing is if the Commission grants a waiver from Rule 4901:1-10-29(H), O.A.C.

subject to the environmental disclosure rule. The Commission finds that the objective of environmental disclosure is to facilitate customer comparisons of various supply options. Hence, it is necessary for the customer to have environmental disclosure data from the standard offer providers. Therefore, the Commission denies AEP, DP&L and FirstEnergy's applications for rehearing on this issue.

- (45) FirstEnergy disputes the Commission's adoption of Rule 4901:1-10-31(C), O.A.C., which requires quarterly comparison between actual and projected environmental disclosure data. FirstEnergy asserts that SB 3 only calls for an annual comparison. We deny FirstEnergy's application for rehearing on this issue as it conflicts with the language in SB 3. FirstEnergy assumes that all contracts will be for a term of at least one year, and that the contracts will expire at the same time. We believe that contracts will potentially be for terms of less than one year. Also, we find that contract expirations will likely not be synchronized. Therefore, the rule does not need to be modified.
- (46) Next, FirstEnergy assigns error to the Commission's pie-chart requirement contained in Rule 4901:1-10-31(D)(2), O.A.C. FirstEnergy argues that suppliers should have the discretion to determine how the information is disclosed. OEC counters that SB 3 requires suppliers to use a standardized format. After reviewing FirstEnergy's assignment of error, the Commission denies FirstEnergy's application for rehearing on this issue inasmuch as we believe that the format should be standardized to facilitate easy comparisons. We are adopting the requirement of black and white shading on the pie chart. We believe the use of black and white shading will make it easier for customers to make comparisons, while minimizing the costs associated with color reproductions.
- (47) FirstEnergy's next assignment of error is that the Commission erred in including the regional reference in Rule 4901:1-10-31(D)(2)(c), O.A.C. Upon review of the record, we find that the regional reference is appropriate to further educate customers; therefore, FirstEnergy's application for rehearing on this issue should be denied.
- (48) OCC, OEC, and SEED assert that the Commission should grant rehearing on the environmental characteristics

contained in Rule 4901:1-10-31(D)(2)(b), O.A.C. OCC, OEC, and SEED argue that the environmental characteristics are inadequate. OCC argues that the categories of environmental impacts are so broad that they are almost meaningless. SEED asserts that the assumption are not based in fact; for example SEED states that the rule labels wind and solar power as having wildlife impacts, while nuclear and fossil fuel sources are not required to be so labeled. OEC complains that the rule focuses on generic, non-actual information, instead of actual and verifiable information. In its memorandum contra, FirstEnergy asserts that the environmental disclosure cannot be expected to relay all aspects of a type of generation. Instead, FirstEnergy suggest that these entities use their public education and advertising efforts to promote their political agenda. The Commission finds merit in several of the arguments presented by the OEC, OCC, and SEED. The Commission has therefore modified the rule to include more details concerning the environmental characteristics, thereby improving customers' abilities to conduct meaningful comparisons of their options.

- (49) FirstEnergy contends that it would be sufficient to have quarterly notification on the bill which indicate the availability of the environmental disclosure information on the providers' website or upon request. In their memorandum contra, OEC argues that FirstEnergy's requested application for rehearing on this issue is contrary to the legislative intent of SB 3. The Commission agreeing with the position put forth by the OEC, denies rehearing on this issue.

UNIFORM ELECTRIC TRANSMISSION AND DISTRIBUTION
INTERCONNECTION CHAPTER

Definitions

- (50) AEP asserts that the definition for "interconnection" should be modified by adding the following two sentences: 1) "In cases where the applicant is an electric distribution company, means the physically direct connection of the applicants facilities to the electric distribution company's system for the purpose of electric power transfer;" and 2) "In cases where the applicant is not an electric distribution company customer (third-party ownership of generation), means the physically direct or indirect connection (depending on ownership of lines to electric distribution company), of the applicant's

facilities to the electric distribution company's system for the purpose of electric power transfer." The Commission does not believe that such a distinction between direct and indirect connections is necessary. The final language contained in the rule makes it clear that "interconnection" means the physical connection between the applicants system and the EDU's system. Therefore, AEP's application for rehearing on this issue is denied.

It is, therefore,

ORDERED, That, in accordance with the above findings, the applications for rehearing and clarification filed by AEP, CG&E, DP&L, FirstEnergy, and OCC are granted to the extent indicated and as discussed above. It is, further,

ORDERED, That in all other aspects, the applications for rehearing and requests for clarification are denied. It is, further,

ORDERED, That a copy of this entry and rule revisions and adoptions, as attached herein, be served upon all parties who filed comments in this docket.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Craig A. Glazer

Judith A. Jones

Donald L. Mason

MBL;geb