

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

BACKGROUND:

On July 6, 1999, the governor of the state of Ohio signed Amended Substitute Senate Bill Number 3 (SB3). That legislation requires Ohio's electric industry to change from a monopoly environment to a competitive electric environment for generation services. The Commission is required by Section 4928.11, Revised Code, to establish minimum service quality, safety, and reliability requirements for noncompetitive retail electric services. On December 21, 1999, we issued for public comment our staff's proposal, which suggested proposed rules by which the Commission would ensure minimum service quality, safety, and reliability requirements for noncompetitive retail electric services.

On February 15, 2000, OCC filed a motion for a one-day extension to file reply comments in this case. OCC's request for an extension to file reply comments is granted. Initial comments were filed by: International Brotherhood of Electrical Workers, Fourth District (hereinafter IBEW); the Buckeye Association of School Administrators (hereinafter BASA), the Ohio Association of School Business Officials (hereinafter OASBO), and the Ohio School Boards Association (hereinafter OSBA), collectively as SchoolPool; Unicom Energy Services; Local 175 and Local 270 Utility Workers Union of America AFL-CIO (hereinafter UWUA); AARP Ohio State Legislative Committee (hereinafter AARP); Columbus Southern Power and Ohio Power (hereinafter AEP); Monongahela Power Company (hereinafter Allegheny); City of Cleveland; the Ohio Environmental Council; the Coalition for Choice in Electricity (hereinafter CCE, whose membership consists of: Consolidated Natural Gas; Enron Energy Services; Greater Cleveland Growth Assoc.; Industrial Energy Users-Ohio; Ohio Partners for Affordable Energy; Ohio Council of Retail Merchants; Ohio Manufacturers' Assoc.; NewEnergy Midwest; WPS-Energy Services; Ohio Grocers Assoc.; Corporation for Ohio Appalachian Development; Ashtabula County Community Action Agency; and Supporting Council of Preventative Effort); Sustainable Energy for Economic Development of Ohio (hereinafter SEED); the American Solar Energy Society, American Wind Association, and Solar Energy Industry Assoc.; Shell Energy Services; Honeywell Power Systems; Dayton Power & Light (hereinafter DP&L); Office of Consumers Counsel (hereinafter OCC); FirstEnergy Corp. (hereinafter FirstEnergy); and Cincinnati Gas & Electric (hereinafter CG&E).

Reply comments were filed by: Unicom Energy and Unicom Energy Services; DP&L; SchoolPool; AEP; CCE; FirstEnergy; UWUA; and OCC.

Due to the number of comments, the Commission will address the substantive issues raised by the commentors, focusing primarily on those comments or proposed revisions that we do believe to be necessary. In some respects, we agree with certain comments and have incorporated them into our rules without specifically addressing such changes in this Finding and Order. To the extent that a comment was raised and it is not addressed in this Finding and Order or incorporated into our adopted rules, it has been rejected.

DISCUSSION:

The following discussion addresses: 1) the amendments to the Commission's existing Electric Service and Safety Standards (hereinafter ESSS); 2) the new provisions for Energy Emergencies; and 3) the new chapter on Uniform Electric Transmission and Distribution Interconnection Standards.

I. Amendments to ESSS

A. Purpose and Scope

In this Finding and Order, we are clarifying that in reference to transmission service, we are only exercising the authority granted to us in S.B. 3 and that portion of the transmission field that the Federal Energy Regulatory Commission (hereinafter FERC) has chosen not to occupy. In its comments, DP&L asserts that the Commission does not have jurisdiction over electric transmission companies (DP&L Initial Comments at 1). The Commission must emphasize that Section 4928.11(A), Revised Code, specifically requires us to promulgate prescriptive standards for inspection, maintenance, repair and replacement of transmission facilities to the extent that federal law does not preempt us from so doing. FERC Order 888 established that FERC's jurisdiction does not extend to services which were left to the jurisdiction of the states. FERC Order 888 took great pains to avoid occupying the field of transmission maintenance or other service-related activities. For these reasons, we find that DP&L's objections are overbroad. 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. DP&L has not produced any FERC orders addressing standards for maintenance and inspection of transmission towers, conductors, or related equipment.

B. Definitions

After reviewing the comments, we have modified the definitions of utility and "transmission company," and added a definition on "slamming."

1. Electric Utility

For clarification purposes we have replaced the proposed definition of "utility" with a definition for "electric utility." Now final Rule 4901:1-10-02(K) defines "electric utility" to include "electric distribution companies and electric transmission companies."

2. Slamming

In their comments, AARP, OCC and Shell Energy requested the addition of language that addresses slamming.¹ Throughout these rules we have considered and adopted new sections that address slamming. Therefore we are adding a definition for slamming in this section. We modeled this definition based on the slamming definition that we currently use in telecommunications. Under final Rule, 4901:1-10-02(N), O.A.C., "slamming" means "the transfer of or requesting the transfer of a customer's competitive electric service to another provider without obtaining the customer's consent."

C. Equipment for Voltage Measurements

CG&E argues that proposed Rule 4901:1-10-04 should be clarified that utilities will need to use appropriate methods for determining the nominal voltages based on whether the customers are connected to a regulated 138kV source (CG&E's Initial Comments at 3). They assert that some customers are connected directly to the 138kV-transmission system, without any voltage regulation; therefore, the standard for such customers will need to be different as compared to those connected to a regulated 138kV source. To recognize these concerns, we have added new language in Rule 4901:1-10-04(B)(1), O.A.C., to recognize situations where customers enter contractual agreements to receive primary service. Moreover, final Rule 4901:1-10-04(D), O.A.C., addresses situations where the company and the customer modify the voltage requirement contained in this rule. In such situations, the company must file a special contract pursuant to Section 4905.31, Revised Code, and demonstrate that the contractual arrangement does not impact other customers on the system.

AEP complains that proposed Rule 4901:1-10-04(C) is unduly burdensome since AEP does not currently have a formalized monitoring plan (AEP's Initial Comments at 11). The proposed rule is not unduly burdensome. In light of AEP's concerns, we have replaced the term "monitoring plans" with "procedures in final Rule 4901:1-10-04(B)(4), O.A.C. Moreover, the Commission takes administrative notice of the recent

¹ AARP requests proposed rule 4901:1-10-21 be modified to reflect slamming (AARP's Initial Comments at 9). OCC requests modifications be made to proposed rule 4901:1-10-12 to reflect slamming concerns (OCC's Initial Comments at 6-7). Shell Energy requested modifications to the following proposed rules to recognize slamming: 4901:1-10-12(F) (Shell Energy's Initial Comments at 3-5), 4901:1-10-22(D) (Shell Energy's Initial Comments at 3), 4901:1-10-29 (Shell Initial Comments at 3), and 4901:1-10-22(D)(1) (Shell Energy's Initial Comments at 4).

U.S. Department of Energy (DOE) report on the reliability issues that arose during the summer of 1999². We find that final Rule 4901:1-10-04(B)(4), O.A.C., is consistent with the DOE report, which underscores the need for proactive monitoring and inspection of substation facilities.

OCC complains that the companies are given too much discretion, which may allow gaming, where the distribution facilities that benefit them rather than their competitors or their competitors' customers are repaired (OCC's Initial Comments at 2). While we are not prescribing specific actions that must be taken, we are placing the companies on notice that this requirement will not be satisfied by merely responding to complaints. Moreover, in final Rule 4901:1-10-04(C), O.A.C., we are adopting OCC's recommendation that we require the utility to address voltage problems in a non-discriminatory manner. Otherwise, the Distribution Company could favor the standard-offer customers over the shopping customers.

D. Metering

DP&L notes that the proposed 4901:1-10-05(C) should be altered to make clear that the customer cannot have net-metering and also have auxiliary and stand-by service that requires additional metering (DP&L's Initial Comments at 6). While we are striking the proposed subsection (C), we disagree with DP&L as to the rationale for the strike. We have added language to subsection (B) that requires electric service to be metered except for certain specified conditions. In addition, we have moved all discussion of net-metering to final Rule 4901:1-10-28, O.A.C.

DP&L objects to references that either directly or indirectly infer that metering is a competitive retail electric service; it advocates that the Commission should replace all references to "meter owner" with "electric distribution company" (DP&L's Initial Comments at 2-3). Conversely, CCE argues that Staff's use of "meter owner" throughout proposed Rule 4901:1-10-05 in place of "electric distribution utility" reflects the possibility that metering could be subject to parties other than the electric distribution company. CCE notes that the general applicability section of the Staff proposed Rule 4901:1-10-01 limits the scope and applicability of the entire electric service standards to investor-owned electric distribution and transmission companies (CCE's Initial Comments at 57). In light of these arguments, we believe that a flexible approach is necessary. Therefore, the definition of "meter owner" shall mean whatever the state of deregulation is at that time. Today, the applicability of this rule extends only to the EDC. We are confident that the term "meter owner" is flexible enough to reflect the state of regulation for the foreseeable future.

² Report of the Department of Energy's Power Outage Study Team: Findings and Recommendations to Enhance Reliability from the Summer of 1999. March 2000.

1. Primary Metering

On the issue of primary metering, which is contained in proposed Rule 4901-10-05(G), AEP argues that primary metering should be done at the customer's expense (AEP's Initial Comments at 13). Similarly, FirstEnergy argues that the cost of primary metering should be negotiated between the customer and the utility (FirstEnergy's Initial Comments at 2). The Commission recognizes that arrangements for primary metering are typically requested by the customers because they do not want company personnel on their property. Since primary metering is a customer-requested optional service, we are deleting proposed subsection (G) from the final rule.

2. Meter Reading

DP&L and CG&E request changes to the quarterly meter reading requirement of the proposed Rule 4901:1-10-06(L). DP&L argued that requiring quarterly readings without a specific agreement between the customer and the electric distribution company would substantially increase costs and add nothing to customer service procedures currently in place; in addition, it argues that it is likely that doing this on a quarterly basis would upset its customers (DP&L's Initial Comments at 8). CG&E claims that it will not be able to comply with this rule since approximately 232,000 of its electric meters are located inside the customer's premises (CG&E's Initial Comments at 5). CG&E noted that they have approximately 10,000 radio frequency automatic meter reading devices installed to obtain meter readings on premises where it is difficult to gain access. CG&E is currently able to obtain readings for approximately 94% of their customers on a monthly basis. The Commission recognized the concerns raised by DP&L and CG&E. Therefore we changed the proposed rule by adopting CG&E's recommendation that the Electric Distribution Company (hereinafter EDC) be required to "make reasonable attempts to obtain actual readings." We believe that it is important that the EDC attempts actual readings on a monthly basis. The Commission's adoption of CG&E's recommendation does not relieve the company of its duty to conduct timely meter readings. Moreover, the Commission will determine on a complaint basis whether the company's attempts were reasonable. In sum, the final rule requires one actual meter read a year, plus the EDC must make reasonable monthly attempts to obtain an actual read.

OCC asserts that estimated meter reads can be grossly inaccurate, particularly when relied upon for an extended period; to address this problem, the OCC proposes that any provision in a contract that allows for actual meter readings less than once a year should be accompanied by a disclosure that reliance on non-actual readings may be inaccurate and may result in unanticipated amounts due (OCC's Initial Comments at 5). We believe that the "reasonable attempts" standard makes it clear that the utility is expected to make actual meter reads every month where possible. In situations where the company cannot make actual reads, it will continue to attempt actual reads every month under this standard. Only in the situation, as raised by FirstEnergy,

where a customer either directly or indirectly refuses access, is the company exempted from the actual read requirement of final Rule 4901:1-10-05(I), O.A.C. (FirstEnergy's Initial Comments at 3). Our finding is not intended to protect a consumer who refuses to allow the company access to the meter.

AEP points out that it has many customers with remote registers or window cards (AEP's Initial Comments at 13). Therefore, it argues that remote registers or window cards should be an acceptable agreement between the customer and the company. The final rule allows for the use of remote registers and window cards.

AEP, Allegheny, CG&E and FirstEnergy recommend that staff proposed Rule 4901:1-10-05(L) be modified to eliminate the requirement to obtain an actual meter reading at the beginning and ending of service (AEP's Initial Comments at 13; Allegheny's Initial Comments at 1; CG&E's Initial Comments at 7; and FirstEnergy's Initial Comments at 2). We note that the industry has migrated towards estimated reading for final and beginning readings. We have modified the language to require such readings only if the customer so requests. In addition, under final Rule 4901:1-10-29(F), O.A.C., the customer may request an actual meter read when switching to a CRES provider; the company is required to provide notice to the customer that such readings are available. Finally, we have added a new Rule 4901:1-10-12(J), O.A.C., which provides a customer's right to an actual meter reading when the customer moves or changes service providers.

3. Marking Meters

In proposed Rule 4901:1-10-05(E), staff proposed that EDCs mark ownership of their meters. Since the AEP companies do not mark ownership of their meters, they argue that sufficient time must be provided to comply with this proposed marking rule (AEP's Initial Comments at 13). After considering the concerns expressed by AEP, the Commission is adopting a waiver process for those companies that do not currently mark ownership of their meters. We have moved the requirement to place the meter owner's name on the meter to final Rule 4901:1-10-05(G), O.A.C. The companies are still required to mark ownership of their meters. We will allow a short transition period, during which any company that has not marked its meters can apply for a waiver and specify in the waiver request the time necessary to comply.

4. Local Ordinance Compliance

FirstEnergy argues that proposed Rule 4901-10-05(H) should only apply to customer equipment; they claim that requiring meters and metering equipment to comply with local ordinances and applicable safety codes may be in conflict with utility equipment being exempted from the National Electric Code and local ordinances (FirstEnergy's Initial Comments at 2). We agree. The intent of the proposed rule was to have the electric distribution company verify that the customer's equipment meets safety requirements before energizing. The part of the rule requiring compliance with

safety codes has been deleted. Local code enforcement will handle that issue. The remaining portion of the rule requires that meters be installed and removed by authorized personnel of the EDC. We have retained the requirement that meters can only be installed and removed by authorized personnel of the EDC.³

5. Historical Consumption Data

AEP, Allegheny, CG&E, and CCE commented on proposed Rule 4901:1-10-05(L)(2) (AEP's Initial Comments at 13; Allegheny's Initial Comments at 1; CG&E's Initial Comments at 9, and CCE's Initial Comments at 57). We note that proposed subsection (L)(2) has been deleted. Now customer's energy usage history is dealt with in final Rule 4901:1-10-22, O.A.C.

E. Outage Reports

FirstEnergy expressed concerns about outage reporting requirements of proposed Rule 4901:1-10-07(B) (FirstEnergy's Initial Comments at 3-4). Their concern is that they should not be held accountable if they are unable to contact either the coordinator or chairman in person. We agree. The utility must immediately report each outage to the PUCO outage coordinator by voice or e-mail message. In addition, during normal business hours, the company may fax an outage report to the PUCO outage coordinator. Historically, when there has been a need to communicate this kind of information in a severe outage circumstance (which may happen once in a number of decades), it has been done without the need to have a rule directing the companies to track down a specific individual. Therefore, we have deleted this portion in the final rule.

F. Emergency Plans

CG&E complains that proposed Rule 4901:1-10-08(H) places an undue burden on it to report substation outages in rural service territories which will not yield meaningful information (CG&E's Initial Comments at 9-10). We disagree. The reporting requirements regarding outages only ask for a summary of major service interruptions which caused the company to implement its emergency plan and the company's efforts to minimize the possibility of a recurrence of such failures. Many outages that are required to be reported in final Rule 4901:1-10-07, O.A.C., do not necessarily require the company to implement its emergency plan.

1. Critical Care

On the topic of critical customers in proposed Rule 4901:1-10-08(I), the AEP companies argue that they cannot identify accounts where the consumer needs life

³ However, we intend to modify this rule to reflect that authorized personnel of the "meter owner" can install and remove meters, when we allow metering to become competitive.

support when the landlord of a rental property/apartment building has the account in the landlord's name. They argue that the reference to "consumer" is inappropriate because the utility has no business relationship with the tenants of a master-metered building (AEP's Initial Comments at 14). In the final rule, we have retained the definition from the previous ESSS rules with a modification. The definition for critical customers is as follows: "any customer or consumer on a medical or life support system who has properly identified themselves to the electric distribution company and for whom an interruption of service would be immediately life-threatening." However, we must accent that this rule has nothing to do with priority for restoration of service. This rule requires that the company must send notice to customers that they need to take action in the case of outages.

2. Communications

In reference to proposed Rule 4901:1-10-08(C)(14)(a)-(b), First Energy asks for communication flexibility for their regional dispatch offices when dealing with the appropriate fire, police and public officials during major service interruptions. They have already set up "special numbers" and "fax numbers" for the above so that they do not have to tie up staff contacting these entities individually (FirstEnergy's Initial Comments at 4). The Commission finds that all utilities should be allowed to set up the most effective way to communicate between these entities. If fax and special numbers are what works for all parties then they should do so. The rule's emphasis is on communication between all of the parties. We believe that the proposed rule is flexible enough to allow all of the company and local officials to reach a consensus as to the best way to communicate with each other. Therefore, we find that no changes to the proposed rule are necessary.

FirstEnergy claims that subsection (D) of proposed Rule 4901:1-10-08 is unnecessary because it simply requires the utility to follow its emergency plan when applicable (FirstEnergy's Initial Comments at 5). Also it claims that the subsection as proposed introduces several undefined terms that do not appear in subsection (C) including "emergency", "disaster", and "interruption of service." If the provision is left in the rules, FirstEnergy claims that the rule should simply require that electric utilities follow their emergency plans when required to do so by the plans. The word "major" needs to be inserted before the word "interruption" in order to be consistent with subsection (E) (FirstEnergy's Initial Comments at 5). We disagree that this rule should be deleted. However, we do agree that the rule should end after the word "plan." The categories listed in the original proposed rule were undefined. We believe that each company's definitions of such categories should be left to the individual companies to identify and should be based on the company's territory, procedures, types of facilities, etc. These definitions should be spelled out in each company's individual plan.

FirstEnergy recommends deleting everything after the word "followed" to avoid introducing several undefined terms in proposed Rule 4901:1-10-8 (E) (FirstEnergy's

Initial Comments at 5). With the deletion, the rule would require a review of employee activities to make sure the emergency plan was followed. We agree that the rule should end after the word “followed.” The categories listed in the original proposed rule were undefined. The Commission finds that each company’s definitions of such categories should be left to the individual companies to identify and should be based on the company’s territory, procedures, types of facilities, etc. These definitions should be spelled out in each company’s individual plan.

CG&E objects to proposed Rule 4901:1-10-08(F), which requires the company to invite mayors and other elected officials, county/regional emergency management directors, fire and police departments, community organizations, and the PUCO outage coordinator to emergency exercises (CG&E’s Initial Comments at 10). It has been the Commission’s experience that the difficulties of coordination are far outweighed by the benefits gained. Moreover, the rule merely requires the company to inform and invite the local officials to the emergency exercise. These exercises provide local officials with essential understandings of the roles and the real expectations of all players should an emergency occur.

G. Notification of Customer Rights and Obligations

In response to the comments discussed *infra*, we have amended the staff’s proposed rules concerning privacy information, CRES provider lists, customers returning to the standard offer, and slamming.

1. Privacy Information

AARP believes that the notice to residential customers, in proposed Rule 4901:1-10-12(F), should be amended to include the privacy information; they claim that the EDC should be prohibited from releasing a customer’s usage history without a customer’s consent (AARP’s Initial Comments at 7). They believe that the disclosure should also inform customers how to provide such consent. Further, they advocate the use of the term “load pattern information” is overly technical and will not inform customers of the nature of the right to restrict certain information. Section 4928.10(G), O.R.C., requires that a customer’s individual “load pattern information” (synonymous with “usage information”) be made available unless the customer objects. This statute would prohibit requiring customer consent prior to releasing such information. Finally, we agree that the term “load pattern information” is overly technical. Therefore, we have replaced it with the more easily understandable term “usage information.”

Based upon the recommendations of AEP, FirstEnergy and Shell Energy, we have modified proposed Rule 4901:1-10-12(F). AEP states that proposed Rule 4901:1-10-12(F) conflicts with the Code of Conduct rules recently enacted in Case No. 99-1141-EL-ORD. FirstEnergy argues that the requirement, in 4901:1-10-12(F)(1), is inconsistent with the Code of Conduct contained in the Rules for Transition Plans (FirstEnergy’s

Initial Comments at 6). It claims that this requirement prohibits disclosure of the customer's telephone number while the Code of Conduct, proposed rule 4901:1-20-16(G)(4)(b), O.A.C., requires the disclosure of the customer's telephone number. In addition, it advocates that the Commission should affirm that the Code of Conduct is incorrect and that a customer's telephone number should not be disclosed. We agree that proposed subsection (F)(1) conflicts with the Code of Conduct rules to the extent that the former prohibits the release of a customer's telephone number while the latter requires such release.

Shell Energy argues that the prohibitions in proposed Rule 4901:1-10-12(F)(1) should be eliminated. Further, they proclaim that the Commission should require electric distribution companies to make available to CRES providers this information, unless the consumer objects, including customer addresses and phone numbers, account number, rate class, load profile and specific historical usage data, meter type and read date, and budget bill indicator (Shell Energy's Initial Comments at 3-5). Shell Energy points out that other states require the provision of Customer Information to competitive suppliers. In Pennsylvania, for example, incumbent utilities must provide at least the following customer information to certificated Electric Generation Suppliers (EGS) unless the customer restricts the release of some or all of its information: 1) name; 2) billing address; 3) service address; 4) account number; 5) rate class (or sub-class if available); and 6) load data, including 12-months of historical usage. This information comes at no cost to the competitive EGS as part of the Eligible Customer List posted on the utility website for access by EGSs. The Pennsylvania PUC found "access to a customer's name, address, account number, rate class and load data is absolutely necessary for a supplier to have the ability to develop specific pricing offers and to have a meaningful opportunity to attract customers." Shell Energy argues that certified CRES providers, for the purpose of providing retail electric services, should have access to an "Eligible Customer List" containing the above-listed Customer Information for all customers who have not exercised their option to prevent such disclosure. We find that CRES providers should have the ability to access this Eligible Customer List and individual customer information by electronic means and at no cost, assuming that the customer has not prevented such disclosure. While we do not believe subsection 12 (F)(1) should be deleted for the reasons stated above, we do believe that individual customer usage data should be available to CRES providers unless customers object. Finally, the Commission agrees that certain customer information should be available on an Eligible Customer list. However, such list should not contain a customer's account number because of the potential for slamming.

2. CRES Provider Lists

OCC recommends that a new provision be added to the proposed rules that requires notification to customers that they may obtain a listing of CRES providers. They propose that the list contain the CRES providers' phone numbers; in addition, OCC requests that a local or toll-free number be provided which customers can call to

obtain the list (OCC's Initial Comments at 6). OCC believes that this must be done to promote choice. It also believes that the distribution company should be charged with maintaining the list. In light of OCC's arguments, we have added subsection (G) to the final rule, which provides: "Customers have the right to obtain from their electric distribution company a listing of available competitive retail electric service providers and their phone numbers."

3. Return To Standard Offer

In its comments, OCC advocates for the inclusion of a provision for customers who return to the standard offer. OCC believes it is important that customers not be required to bear any costs associated with returning to the standard offer, nor should the customer be required to continue on the standard offer for any specific length of time (OCC's Initial Comments at 6-7). We agree that customers should not bear the cost of any involuntary switches back to the standard offer.

4. Slamming

In the final rule, the Commission is requiring the EDC to switch customers back to their previous supplier, in the event the staff verifies customers are switched without their consent. Moreover, we are requiring that the EDC credit the customer's account for any switching fees associated with the unauthorized switch.

H. Delinquent Residential Bills

AARP believes that this section should have a stronger prohibition on the issuance of any disconnection notice to a residential customer for a delinquent bill that contains charges for competitive retail electric service, except when the utility is acting as the provider of last resort (AARP's Initial Comments at 8). They argue that it is insufficient for a utility notice to include CRES providers charges even if the actual disconnection occurs for regulated distribution utility charges. Utilities that bill for provider charges will be required to maintain multiple balances and to track the customer's payments according to the unbundled or competitive charges that appear on the customer's bill. Therefore, AARP suggests that reference to "nontariffed service" should be defined further to include all CRES provider charges or other utility nonbasic charges. They advance that the section should also prohibit such disconnection or threat of disconnection even when the utility purchases the receivables of a CRES provider. AARP notes that its recommendations are modeled on the policies adopted in Pennsylvania, Connecticut, Massachusetts, New Jersey, and most other states that have implemented retail electric competition. We agree with AARP that language should be included with this rule to clarify that the electric distribution company may not disconnect service for failure to pay CRES charges. An electric distribution company must separate regulated charges from nontariffed, nonregulated, and CRES services on its disconnection notice and must include a statement on the notice that failure to pay for nonregulated, nontariffed and/or CRES

services will not result in cancellation of the customer's contract with the CRES provider and will return the customer to the EDC's standard offer. Changes to the proposed rule have been made to reflect this suggestion. Finally, we need to point out that we have not ignored nonresidential customers, which are already protected under existing ESSS Rule 4901:1-10-17(C)(6), O.A.C.

I. Customer Complaints and Complaint Handling Procedures

1. What the EDC Should Do When a Customer Contacts Them for CRES Information

AARP argues that proposed Rule 4901:1-10-21(G) should require the EDC to "own" all complaints in order to prevent customers from being bounced back and forth from EDC to CRES provider (AARP's Initial Comments at 9). We agree. Therefore, we have clarified the rule to require the EDC to coordinate the resolution of customer complaints about CRES unless the complaint relates solely to the CRES provider.

2. Slamming Complaints

AARP also argues that proposed Rule 4901:1-10-21 should specify the electric distribution company's role in coordinating a customer's allegation of slamming by a CRES provider (AARP's Initial Comments at 9). We agree. They believe that the proposed rule lacks the needed EDC procedures for customers who have been slammed. To address these concerns, we have added subsection (H) to final Rule 4901:1-10-21. Subsection (H) requires the EDC to refer slamming complaints to the Commission's Consumer Services Department. If the Commission staff confirms the slam, then the EDC is required to take the following five steps: 1) switch the confirmed-slam customer back to the previous supplier (EDC or CRES provider) without charge or penalty to the customer; 2) credit the customer's account for any switching fees associated with the slam; 3) credit the customer for any CRES provider charges from the slamming party (if billing is handled by the EDC or its agent); 4) report to the previous provider the customer's usage during the slammed period (or charge the customer's previous account for such usage); 5) maintain records of such actions including the number of monthly confirmed slamming events.

J. Customer Billing and Payments; Customer Usage Records; Customer Notices

1. Customer Bills

In response to comments made by AARP and OCC, the Commission has modified item (16) of final Rule 4901:1-10-22(A), O.A.C., and added items (22)-(25). In reference to item (16), OCC argues that the EDC bills should include the toll-free telephone number of each provider of any nonregulated and/or CRES charges

appearing on the bill (OCC's Initial Comments at 8). In an effort to reduce customer confusion, the Commission has modified proposed item (16) to require each bill to identify: 1) each charge for nontariffed or nonregulated service and CRES; 2) each provider of that service; and 3) the toll-free or local telephone number for each provider.

AARP argues that the billing rule needs to specify requirements for 3 different bill formats: 1) standard offer bill; 2) dual billing; and 3) consolidated bill with EDC billing for the CRES provider (AARP's Initial Comments at 9-10). We agree in part. Namely, we agree that the proposed rule lacks some of the requirements necessary to inform customers of the different billing formats. Therefore, we are adopting the following requirements the EDC shall include in the customer's bill the name of the applicable CRES provider and a statement that such provider is responsible for billing the supplier charges (new item (21)); and 2) the EDC must include the name of the applicable CRES provider where the supplier charges appear (new item (22)).

OCC argues that the billing rule should require that customer bills include a listing of the customer's usage (by kWh) for each of the past 12 months (OCC's Initial Comments at 9). We agree. In order for customers to shop and compare offers, it will be more important for the customer to have quick access to his or her usage history. It would save many customer calls for such information if the EDC were to provide it on the bill. Therefore we have added item (23) to final Rule 4901:1-10-22(A), O.A.C. Item (23) requires the EDC to include customer's total and average consumption for the preceding 12-month period on their bill.

2. Customer Information

After weighing the comments filed by CG&E, AARP, Shell Energy, and FirstEnergy, we have modified proposed Rule 4901-10-22(D)(1) as discussed *infra*. CG&E comments that electric distribution companies should be allowed to disclose customer's account numbers and social security numbers, so long as they have the customer's written consent (CG&E's Initial Comments at 12). AARP advocates for a prohibition on the EDC releasing customer account numbers and their specific usage history without the customer's consent (AARP's Initial Comments at 10). The Commission agrees with AARP that only the customer should permit the release of their personal information. Hence, final Rule 4901:1-10-22(D)(1) requires customer written consent before the EDC can release the customer's account number or social security number. Shell Energy requests that the EDC be required to post the following customer information on their web-site: 1) name; 2) address; 3) account number; 4) rate class information; 5) load data; and 6) phone number (Shell Energy's Initial Comments at 3). We agree with Shell Energy that the EDC should include the following on their Eligible Customer lists, the customers: 1) name; 2) address; 3) rate class information; and 4) 12 months of usage data. We believe that this information is essential for CRES providers to recruit customers; therefore, we have moved this requirement to Rule 4901:1-10-29, O.A.C. In so doing, we addressed a comment made

by FirstEnergy that a conflict existed between proposed Rules 4901:1-10-22(D)(1) and 4901:1-20-16(G)(4)(b) (FirstEnergy's Initial Comments at 6-7). We have continued our attempt to protect consumers' realistic expectations of privacy by omitting references to customer telephone numbers from the final rule.

OCC advances that EDCs should not be required to disclose more than 24 months of customers' payment history; moreover, OCC states that an EDC should not disclose this information without the customer's consent (OCC's Initial Comments at 9). CG&E believes that EDCs should not be allowed to disclose a customer's payment history without their written consent (CG&E's Initial Comments at 12). AARP requests a prohibition on EDCs from releasing a customer's billing and payment history to CRES providers (AARP's Initial Comments at 10). We share the concerns expressed by AARP. Moreover we do not wish to burden the EDC with having to comply with any additional requirements of the Fair Credit Reporting Act. We firmly believe that it will not be unduly burdensome for the CRES providers to go to the credit bureau to check on prospective customers.

3. Load Pattern

AEP suggests that proposed Rule 4901:1-10-22(D)(4) should be modified to reflect that electric distribution companies should be required to provide electric customer load pattern information in universal file format (AEP's Initial Comments at 16). The Commission strongly believes that all CRES providers should have equal and easy access to generic customer load pattern information. Therefore, we have adopted AEP's suggestion in final Rule 4901:1-10-22(D)(3), O.A.C.

CG&E believes that proposed Rules 4901:1-10-22(D)(5) and 4901:1-10-05(L)(2) should be amended to reflect the meaning that customer-specific usage histories should not be disclosed to other electric light companies without the customer's consent (CG&E's Initial Comments at 13-14). We do not find merit in this request. More importantly, we find that it is contrary to the statutory requirements of Section 4928.10(G), Revised Code, which requires that such information be made available unless the customer objects.

FirstEnergy claims that EDCs should be allowed to charge customers and CRES providers for additional load pattern information after it has initially been provided (FirstEnergy's Initial Comments at 7). Similarly, CG&E states that EDCs should be allowed to charge a cost-based rate for providing customer-specific usage information to the extent it is based on interval meter data (CG&E's Initial Comments at 13). The Commission finds that there is not a need for a rule to mandate or even permit such a charge, since the EDCs can submit proposed tariffs reflecting any such demonstrable incremental costs not otherwise recovered in existing rates.

4. Notice Requirement

CG&E believes that the notice requirement contained in proposed Rule 4901:1-10-22(D)(6) needs to reflect that the purposes of this procedure are to inform customers that they may request not to be placed on mass customer lists (CG&E's Initial Comments at 13). Similarly, OCC advocates for the adoption of the following language: "Currently, your electric usage and billing history {is/is not} being disclosed. If you wish to change this status, please call" (OCC's Initial Comments at 4). We agree with the concepts advocated by both commenters, but we prefer the suggestion put forward by CG&E. Hence, we are changing the language from "release of customer-specific load pattern information" to a reference to having their information appear on a "customer list." Now final Rule 4901:1-10-22(D)(5), O.A.C., requires the EDC to provide the following notice to customers: "We are required to include your name, address, telephone number, and usage information on a list of eligible customers that is made available to other electric service providers. If you do not wish to be included on the list, please call _____ or write _____."

5. Partial Payments

Shell Energy states that partial payments should not be automatically credited to regulated transmission and distribution service charges before CRES provider charges (Shell Energy at 12). FirstEnergy requests that proposed Rule 4901:1-10-22(I) be clarified to require partial payments be applied to standard offer generation providers before CRES provider charges (FirstEnergy's Initial Comments at 7). AEP suggests that we hold the matter in abeyance until the OSP workshops can resolve the matter (AEP's Initial Comments at 16). Since this matter currently affects thousands of customers, we cannot defer it to the workshop process. Nor can we depart from our current policies. In the final rule, the Commission continues to be committed to the policy that partial payments should be allocated to regulated charges first, so that customers cannot be disconnected for failure to pay regulated charges. Therefore, the final rule contained in 4901:1-10-22(I), O.A.C., require the EDC to credit customer's partial payments in the following order: 1) regulated distribution charges; 2) regulated transmission charges; 3) standard offer generation charges; and 4) CRES charges.

6. Up-to-Date CRES Provider List

In the final rule, we are requiring the EDCs to develop and maintain a list of certified CRES providers operating in their respective service territories. The EDC is required to provide a copy of the list to: 1) all customers at the initiation of choice and quarterly during the market development period; 2) to all applicants for new service and customers returning to the standard offer; and 3) any customer upon request.

K. Notice of Disconnection to Tenants and Landlords

The currently effective Rule 4901:1-10-25, O.A.C., requires the electric distribution company to give ten days notice of impending disconnection to a tenant whose landlord is the customer of record for the electric service and three days notice to a property owner if the tenant is the customer of record and the electric service is to be disconnected. CG&E claims that the addition of the phrase "at least" in front of the requisite ten days and three days makes the rule confusing (CG&E's Initial Comments at 14). The Commission disagrees and finds that the phrase "at least" clarifies the minimum notice period the electric distribution company must give to the tenant or landlord.

L. Reporting Requirements

To varying degrees CG&E and FirstEnergy objected to the reporting requirements proposed by the staff. CG&E requests that either the transmission report requirement, for 125kV and above, or the IRP reporting requirement be eliminated (CG&E's Initial Comments at 15). We have eliminated the IRP reporting requirement, in favor of retaining the proposed reporting requirement in this rule. FirstEnergy believes that the rule should be limited to the addition of major equipment such as new transmission lines, substations, or new distribution circuits; they claim that the Commission should recognize that it is already required to comply with both ECAR and NERC standards (FirstEnergy's Initial Comments at 15). First off, these rules are not limited to the addition of major equipment. Our intent is not to track investments in individual major pieces of equipment, but to track the utility's plan for improvements to ensure safety, reliability, and service quality of its transmission and distribution facilities. While we note that some of this information would be provided during rate cases, those cases are not frequent enough to satisfy the need here.

CG&E requests the addition of a definition of "operating area" in proposed Rule 4901:1-10-26 (CG&E's Initial Comments at 15). Instead of defining "operating area," the Commission has changed the phrase to "service territory."

In addition, CG&E advocates for the replacement of the requirement to report voltage variance for the entire system with a requirement to have an electric distribution company supply a periodic sampling of voltage measurements (CG&E's Initial Comments at 17). The Commission is making the requested change; however, we must emphasize that the change applies to this rule only. Furthermore, as stated in this rule, the electric utility is still required to report the number and duration of planned and unplanned interruptions of service during the annual reporting period and their impacts on customers.

M. Inspection, Maintenance, Repair and Replacement of Transmission and Distribution Facilities (Circuits and Equipment)

The Staff issued two versions of the proposed inspection, maintenance, repair and replacement rule. The electric utilities contend that version 1 is activity-oriented, counter-productive, overly prescriptive and will result in substantial costs increase. Commenting electric utilities estimate that version 1 will result in expenditures of \$10,000,000 to \$40,000,000 without measurable benefits to the electric consumer (AEP's Initial Comments at 16; CG&E at 2; Allegheny at 2-5; DP&L at 14; and FirstEnergy at 10). However, OCC and the labor unions support the adoption of version 1. OCC and the IBEW contend that time-based standards are essential for the Commission to maintain the necessary level of supervision over the electric utilities (OCC's Initial Comments at 10; and IBEW's Initial Comments at 2). The UWUA argues that the Commission should not allow electric utilities to assess their reliability, plan the necessary remedial action and establish their own inspection, maintenance, repair and replacement programs (UWUA's Initial Comments at 2).

In an effort to balance the necessity for safe and reliable electric service and the benefits of inspection, maintenance, repair and replacement programs against the costs to be incurred by the electric utilities and ultimately passed on to consumers, the Commission has deleted Staff's proposed version 1 of Rule 4901:1-10-27. We have concluded that Staff's proposed version 2, with the amendments and revisions adopted herein, represents a more flexible, result-oriented, and cost-efficient method to ensure safe, reliable and reasonably priced electric service for Ohio's consumers. We disagree with the claims of the UWUA that proposed version 2 does not carry out the legislature's intent of SB3. We believe that as adopted herein, Rule 27 allows the Commission to develop company-specific inspection, maintenance, repair and replacement standards based on the company's historic service reliability, capital facilities investments and customer service complaints. The Commission acknowledges that each electric utility's facilities and equipment are unique given the geographic nature of the company's service area, the age of the system, the technologically advanced equipment installed and the type of facilities and equipment at issue. However, the electric utilities are put on notice that should the Commission determine that the equipment and/or facilities of any electric utility are inadequately maintained or repaired, the Commission shall initiate an investigation and may implement more prescriptive inspection, maintenance, repair and replacement standards to ensure the development of electric competition, reliable and safe service for Ohio's consumers and to protect the integrity of the electric system and the power grid.

OCC contends that if electric utilities devise their own inspection, maintenance, repair and replacement programs, the company should not be entitled to the rebuttable presumption of adequate service in a complaint proceeding pursuant to Rule 4901:1-10-1(F) (OCC Initial Comments at p. 11). The Commission agrees that the electric

utility should bear the full risk associated with developing their own inspection, maintenance, repair and replacement programs and Rules 4901:1-10-1(F) and 4901:1-10-27 have been revised accordingly.

FirstEnergy proposes that distribution equipment and circuits be defined as those operating at less than 69kV (FirstEnergy's Initial Comments at 12). We find FirstEnergy's proposed definition of distribution equipment and circuits to be unacceptable since the Commission is aware of Ohio electric utilities operating transmission facilities at less than 69kV.

Staff's proposed version 2 of Rule 4901:1-10-27, O.A.C., dictated that electric utilities inspect their distribution circuits and equipment at least once every four years. FirstEnergy is opposed to the four-year inspection cycle (FirstEnergy's Initial Comments at 12). CG&E suggests that the inspection cycle be extended to six-years (CG&E's Initial Comments at 30). DP&L argues that the mandatory inspection cycle is costly and recommends that a thorough circuit inspection be based on the company's distribution reliability indices or the electric utilities be allowed at least a 15-year circuit inspection cycle (DP&L's Initial Comments at 9). We conclude that the periodic inspection of circuits is necessary for the optimal operation of the electric system and that a 15-years inspection cycle is far too liberal. A five-year circuit inspection cycle is more appropriate. We note that adopted Rule 4901:1-10-27 does not dictate the method of inspection or the documentation requirements to comply with the rule. We warn the electric utilities that, upon request, the company must be able to adequately demonstrate to the Commission and/or Commission staff's satisfaction the last two times a particular facility or item of equipment was last inspected, the condition at inspection, if any repairs/replacements were made to the facility or equipment and when any such repairs were made.

As proposed by Staff, version 2 of Rule 4901:1-10-27(D) required each electric utility to establish scheduled maintenance programs based on recognized industry practices. The proposed Rule 4901:1-10-27(D) further directed that the scheduled maintenance programs include at least the following facilities and equipment: wood poles, conductors, pad-mounted transformers, line reclosers, line capacitors and right-of-way vegetation control. CG&E asserts that the benefit of recloser maintenance is minimal and such maintenance can contribute to outages. CG&E also claims that capacitor controls are inspected routinely but do not require scheduled maintenance as such maintenance may also contribute to outages (CG&E's Initial Comments at 31 – 32). We agree with Staff that an electric utility's entire infrastructure needs to be inspected and maintained to ensure the safety and reliability of the system, including the equipment and facilities that are critical to the functioning of the electric system. Accordingly, the Commission has retained the list of equipment and facilities for which the electric utility must establish a scheduled maintenance, repair and replacement program. We clarify that the intent of requiring a maintenance, repair and replacement program is obviously not to increase the number of outages electric consumers experience but to improve service reliability.

N. Net Metering

DP&L proposes that the electric distribution company be allowed the option of developing a standard contract or a tariff (DP&L Initial Comments at 6). We believe that allowing the electric distribution company to develop a standard contract for net metering would permit the company to circumvent the intent of Section 4928.67, Revised Code. Instead, we are requiring electric distribution company to address net metering and associated interconnection requirements in their tariffs.

Proposed paragraph (A) of Rule 4901:1-10-28 has been amended based on the comments of CG&E, to clarify that customer-generators must have generation fueled by renewable fuels and is limited to generation that is primarily intended to offset a portion or all of the customer-generators requirements for electricity (CG&E Initial Comments at 32). The paragraph has also been revised to make a net metering arrangement available to customer-generators irrespective of the date the customer's generation facilities were installed. Unicom further suggests that paragraph (A) include the following provision: "The rated generating capacity used by the customer-generator will not be counted for accumulation toward such one percent limit until the generator is interconnected into the distribution facilities and is generating" (Unicom Initial Comments at 3). We believe to adopt such a provision would be unfair to customers whose application to become a customer-generator had been accepted but was later disqualified because the electric distribution company reached its one-percent limit.

AEP proposes that customer-generators incur wire charges for any electricity delivered and for any energy transported from the customer-generator to other customers (AEP Initial Comments at 27). We do not believe that such was the intent of the legislature. The electricity transported to other customers is used by those other customers, who pay the electric utility for the service. 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. We note that has Rule 4901:1-10-28(D), O.A.C., prohibits the electric distribution company from imposing any additional interconnection requirements or charges on customer-generators that refuse to consent to the installation of an additional meter or charges for feeding electricity into the system.

CCE and the city of Cleveland posit that Rule 4901:1-10-28 should restrict safety and performance standards to those applicable to metering that are established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, and Rules 4901:1-22-03 and 04, O.A.C. We agree.

SEED Ohio, Ohio Environmental Council, Geoffrey Rich and the American Solar Energy Society, et. al., contend that the net metering rule should stipulate that a

customer's existing single-register meter, which is capable of registering the flow of electricity in both directions, satisfies the requirement for net metering (SEED Ohio's Initial Comments at 3; Ohio Environmental Council's Initial Comments at 1; and Geoffrey Rich's Initial Comments at A-1). The commentors further request that if the customer's meter does not register electricity in both directions that the customer-generator be allowed to purchase the meter. Similarly, CCE and the city of Cleveland propose that the rule specify that the single meter shall increase its reading for net power flow from the EDC and/or CRES provider and decrease its reading for net power flow to the EDC and/or CRES provider (CCE's Initial Comments at 40). The Commission agrees with SEED Ohio, et al., that the rule should be clarified to state that a customer's existing single-register meter, which is capable of registering the flow of electricity in both directions, satisfies the requirement for net metering, and believes this wording is more easily understood than that recommended by CCE, et al.

CCE also proposes that the net metering rule specifically state that "excess credits shall be available until netted against the customer-generator's bill" (CCE Initial Comments at 41). The Commission agrees that Rule 4901:1-10-28 should be clarified on this issue and has revised the rule accordingly.

O. Coordination with CRES Providers

As FirstEnergy correctly notes, electric service can not be disconnected for a failure to pay for competitive retail electric charges (FirstEnergy Initial Comments at 15). Therefore, Rule 4901:1-10-29(A) has been revised to remove any implication that the CRES provider can initiate or cause the disconnection of a customer's electric service.

FirstEnergy wants to be able to vary the provisions of its supplier tariffs. Therefore, FirstEnergy requests that the term "standardized" be removed from paragraph (B) of the proposed rule. As proposed by Staff, the intent of the rule is to facilitate a CRES provider's ability to offer competitive retail electric service throughout the state. The objective is to prevent CRES providers from being forced to unnecessarily conduct business in a different way in each electric distribution company's service area. Therefore, we conclude that the term "standardized" serves a clear purpose in this rule. Similarly, we disagree that the term "supplier training" should be omitted from paragraph (B), as suggested by DP&L (DP&L Initial Comments at 5). The Commission clarifies that the rule requires each electric distribution company to offer CRES providers training on the electric distribution company's operation policies and procedures. The tariff provision will put CRES providers on notice that such training is mandatory. We believe that such training for the CRES providers will minimize problems and the impact of any problems on the end use customer.

OCC proposes that the electric distribution company should be required to offer a budget-billing option to the CRES provider's customers and that customers who

have paid a deposit to the electric distribution company be given a refund if the customer elects to receive service from a CRES provider (OCC Initial Comments at 11 and 12). We note that in accordance with OCC's recommendation paragraphs (G) and (H) have been added to adopted Rule 4901:1-10-29. We also note that Rule 4901:1-10-29(I) and (F) have been added to clarify the process for CRES customer enrollment and customers being transferred to or leaving from the electric distribution company's bundled or standard offer service.

P. Failures to Comply with the Rules or Commission Orders.

Proposed Rule 4901:1-10-30 informs the electric utility of the consequences for violating the rules in this chapter and the process to be followed by the Commission and staff in Chapter 4901:1-23, O.A.C., to enforce the rules in this chapter or orders issued thereunder.

AEP asserts that Rule 4901:1-10-30 should be deleted because the provisions for violating rules or Commission orders is set out in the statutes (AEP Initial Comments at 28). We note that the penalty for violating Commission rules, regulations, or orders, is set forth in the Revised Code. However, as with any enabling statute, the Commission may set forth the administrative rules to effectuate the statute, which is the purpose for adopting Rule 4901:1-10-30 and Chapter 4901:1-23, O.A.C. AEP further states that it is not clear in staff's proposed rule what customer contract can be rescinded if the electric distribution company violates a rule or order (AEP Initial Comments at 28). AEP is correct that pursuant to Section 4928.16(B), Revised Code, rescission of the end use customer's contract is not applicable to the electric distribution company and, therefore, adopted Rule 30 has been revised appropriately.

FirstEnergy contends that electric distribution companies should only incur penalties if the company knowingly violates the rule (FirstEnergy Initial Comments at 16). We disagree. The electric utility is responsible for knowing the rules and educating and training their personnel to comply with the Commission's rules, regulations and orders. Furthermore, FirstEnergy requests six months to implement the rules after adoption by the Commission. The Commission recognizes that electric utilities may require some time to implement the new standards adopted herein. Therefore, the Commission will consider requests for an extension of time to allow for implementation of the new standards issued in this proceeding.

AARP recommends that the Commission impose regulatory performance measures such as: the number of customer complaints appealed to the Commission per x number of customers; penetration ratios for low-income programs; baseline service quality index; and mandatory revenue reduction penalties for poor service quality. We believe that the enforcement procedures adopted in Chapter 4901:1-23, O.A.C., along with the Commission's authority to initiate an investigation, allow the Commission more flexibility to address service issues than the method proposed by AARP. However, the Commission's Staff will evaluate similar performance measures

periodically, if we believe necessary, based on the number of informal complaints registered with the Commission's Public Interest Center.

Q. Environmental Disclosure

The Commission interprets Section 4928.10(F), Revised Code, to require the electric distribution company to provide customers with the generation resource mix and environmental characteristics of its power supply to allow customers to make an informed decision about their electric service. Therefore, a new Rule 4901:1-10-31, O.A.C., has been added to this chapter.

II. Energy Emergency

This chapter is proposed to address the essential nature of electric service. We note that the definition of an "electric utility" has been revised to be consistent with the definition in Rule 4901:5-19-01, O.A.C., and the term "lift stations" has been excluded in final Rule 4901:5-37-01(A)(5), O.A.C., based on the comments of CG&E. However, the Commission believes it is inappropriate to limit the application of this provision to only federal, state and county-operated prison facilities or to only manned fire and police stations as suggested by CG&E (CG&E Initial Comments at 33). Private prisons and unmanned, volunteer fire departments are no less critical to the communities these facilities serve. We further believe that it is more efficient for the electric utility if the Commission adopts the same notification guidelines as those imposed on the company by FERC, the DOE and National Electric Reliability Council and have revised Rule 4901:5-37-01(C), O.A.C., accordingly.

We clarify that pursuant to Rule 4901:5-37-01(D), O.A.C., the electric utility is required to file a plan with detailed descriptions of how the company intends to address emergencies, including any reasonably foreseeable delivery constraints. Further, we note that in addition to numerous changes for clarity and consistency, proposed Rule 4901:5-37-06, O.A.C., has been deleted.

III. Uniform Electric Interconnection Standards

A. Scope and Application

CG&E believes that we should require each utility to file nondiscriminatory procedures to handle interconnection requests to their distribution system (CG&E's Initial Comments at 38). CG&E states that connections to the transmission system are under FERC jurisdiction; therefore, they argue that this proposed rule should be modified to avoid usurping FERC's jurisdiction. In light of this argument, we have deleted the sections of the proposed Rule 4901:1-XX-01 relating to generating facilities over 50 MW and transmission facilities 69 kV or greater.

B. Definitions

In proposed Rule 4901:1-XX-02(B) "backup electricity service" is defined as being supplied by a competitive retail electric service provider. Unicom states that there is no statutory prohibition against a customer-generator purchasing backup power service from the electric distribution utility. It contends that Section 4928.15, Revised Code, requires the competitive electric service provider to provide a "self-generator" with access to backup electric supply, but does not mandate that the self-generator may only purchase backup service from its generation service provider. It claims that the problem with the proposed rule is that it can be read to require backup service to be purchased exclusively from the generation service provider; this would prohibit a customer from purchasing backup service from the distribution utility. Therefore, Unicom recommends that the following language be added to the end of the rule: "or at the option of the customer-generator, self-generation, small electric generation facility, or distributor generator, replacement power may be supplied by the electric distribution utility at a rate contained in an applicable filed commission-approved tariff." (Unicom Energy Service's Initial Comments at 5). At the other end of the spectrum, DP&L advocates for replacing "by a competitive retail electric service provider of the interconnection service customer's choice at a rate to be determined between the provider" with "by the electric company at a rate to be determined between the electric distribution company" (DP&L's Initial Comments at 5). In the final rule we have adopted Unicom's suggestions and rejected those of DP&L. We find that back-up electric supply service can be competitive generation. We have adopted the spirit of Unicom's suggestions, and changed the language to allow customers the option of choosing back-up supply as an ancillary service from the electric distribution company or from a competitive supplier pursuant to Section 4928.15(C), Revised Code.

Proposed Rule 4901:1-XX-02(T) defines "interconnection service customer" to include customer generators, small electric generation facilities, self-generator or distributed generation facility and governmental and other aggregators. CG&E claims that the definition is confusing. It suggests that we change the definition to: "interconnection service customer means the owner or operator of a generation facility which could be an electric utility, a municipal electric utility...to an electric utility's transmission or distribution system" (CG&E's Initial Comments at 39). We agree in part with CG&E's suggestion. Therefore, in final Rule 4901:1-22-02(J), O.A.C., we have deleted the reference to governmental and other aggregators, but retained the references to the types of small generation, since they are specified in Section 4928.01, Revised Code.

C. Connection Service Requirements

First off, we have adopted CG&E's recommendation to remove the term "application," from the title of the final Rule 4901:1-22-03, O.A.C. (CG&E's Initial Comments at 40). We have modified our final rules concerning the uniform

minimum standards in proposed Rule 4901:1-XX-03(A) in light of the comments filed by CCE, American Solar Energy Society, and Honeywell. CCE comments that the requirement to have uniform minimum standards "on file" is ambiguous and needs clarification (CCE's Initial Comments at 60). The American Solar Energy Society also objected to the use of the phrase "on file." It believes that a simple filing process will not be sufficient to ensure that the interconnection requirement appropriately balances utility concerns and concerns of the generation facility owner (American Solar Energy Society's Initial Comments at 3). In the final Rule 4901:1-22-03(A), O.A.C., we have modified the language to read "shall file interconnection tariff(s) with this commission that defines the uniform minimum requirements for interconnection...." Since net metered customer generators would be governed by the terms of such tariffs, we direct the EDCs to file proposed tariffs within 30 days following the date of this order. In addition, we direct staff to conduct a workshop for all interested parties to address the issues raised by the EDCs' filings.

The Commission received numerous comments about proposed sections (D) and (E) of proposed Rule 4901:1-XX-03. The American Solar Energy Society claims that the rule suggests that the utility pay for the manual disconnect switch, but there is no reason that the utility should furnish the switch. It recommends that the manual disconnect device requirement be waived for micro-generating facilities such as solar and wind systems less than 10kW using UL-listed "anti-islanding inverters;" moreover, it recommends that site testing for small-scale facilities using precertified equipment be exempted (American Solar Energy Society's Initial Comments at 5). CG&E suggests that subsections (D) and (E) should be deleted in their entirety (CG&E's Initial Comments at 41). CCE believes that the rule should allow for a waiver of the manual disconnect device for micro-generation facilities, such as solar and wind systems under 10 kW peak generating capacity that are connected through a UL-listed "anti-islanding" inverter; alternatively, if a manual disconnect switch is required, the customer should be given the option to furnish and install the equipment (CCE's Initial Comments at 63). DP&L believes that communications channels should be determined by individual generation situations and not constrained by the proposed rules (DP&L's Initial Comments at 12). FirstEnergy claims that the section should be rewritten (FirstEnergy's Initial Comments at 18).⁴ Honeywell Power Systems expressed concern about the use of the phrase "to be included;" it fears that the phrase may permit the utility to add requirements (Honeywell Power Systems' Initial Comments at 2). SEED recommends that the rule include a waiver provision for the manual disconnect device for micro-generating facilities under 10 kW peak generating capacity that is interconnected through a UL-listed anti-islanding inverter. In light of

⁴ FirstEnergy claims that the language should be rewritten as follows: "For Transmission System: Once the generator is separated from the electric utility's transmission system, it shall not be put back in parallel with that system until full voltage and power support capabilities for the distribution or transmission system are in a place. For Distribution Systems: Once the generator is separated from the electric utility's distribution system, it shall not be put back in parallel with that system until full voltage and power support capabilities for the distribution system are in place and permission is obtained from the electric distribution company's dispatch office."

these objections, the Commission has deleted proposed subsections (D) and (E) from final Rule 4901:1-22-03, O.A.C.

D. Procedures for Processing Distribution Interconnection Applications

CCE claims that subsections (A) and (B) of proposed Rule 4901:1-XX-04 do not contain important provisions that are contained within the proposed rules for larger generating facilities under proposed Rule 4901:1-XX-07. In answer to CCE, we have added sentences to subsections (A) and (B) of the final rule. The new language in subsection (A) of final Rule 4901:1-22-04, O.A.C., provides that: "No electric distribution company shall make compliance with this chapter unduly burdensome or expensive for any interconnection service customer." The new language in subsection (B) of final Rule 4901:1-22-04, O.A.C., provides that: "No electric distribution company shall reject, penalize or discourage the use or development of new technology for interconnection service."

In reference to proposed Rule 4901:1-XX-04(D), CG&E requested that we delete the following language: "five percent of line rating." It claims that the utility would have to review fault duties, relay coordination, etc., for all types of units before the unit could be safely added to the system (CG&E's Initial Comments at 45). CCE recommends inserting the following language after the first sentence of the proposed subsection (D): "In no case shall studies be required for units with ratings smaller than or equal to 1,000 kW." In addition, CCE advocates that we insert "[s]tudies shall be completed within 15 days of interconnection service customer's approval for the utility to perform the study" at the end of the rule (CCE's Initial Comments at 65). DP&L calls for the deletion of the following language from the first sentence of the proposed subsection (D): "if the distributed generation facility is greater than five percent of the line rating to which it will be connected" (DP&L's Initial Comments at 13). Honeywell Power Systems expresses concerns about the fact that each company may have different criteria for determining when a service study is required; therefore, it recommends that the Commission adopt language that better defines the circumstances regarding the need for each study and the fee schedule (Honeywell Power Systems' Initial Comments at 2). In final Rule 4901:1-22-04(D), O.A.C., we adopted language as recommended by CG&E, CCE, and DP&L to accommodate a fee schedule for the studies; however we are rejecting the argument of Honeywell Power Systems that the standards should be reduced.

ORDER:

It is, therefore,

ORDERED, That the attached amendments and additions to Chapter 4901:1-10, O.A.C., and the proposed Chapters 4901:1-22 and 4901:5-37, O.A.C., are hereby adopted. It is, further,

ORDERED, that the Commission is the ultimate arbiter of the meaning of these rules and the reasonableness of the electric utility's application of the rules. It is, further,

ORDERED, That copies of the adopted rules be filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the adopted rules be effective as of the earliest date permitted by law. Unless otherwise ordered by the Commission, the review date for Chapters 4901:1-10 and 4901:1-22, O.A.C., shall be September 30, 2002. The review date for Chapter 4901:5-37, O.A.C., shall be November 30, 2001. It is, further,

ORDERED, That a copy of this entry and the rules adopted, as attached herein, be served upon all parties who filed comments in this docket and all interested persons which were served a copy of the entry issued December 21, 1999 in this proceeding.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Craig A. Glazer

Judith A. Jones

Donald L. Mason

GNS/MBL/vrh;geb