

4901:1-23
Electric Reliability, Customer Service and Safety

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4901:1-23-01 **Purpose and scope.**

- (A) The rules contained in this chapter prescribe procedures for staff of the public utilities - commission~~staff of Ohio~~ to administer and enforce the electric reliability, customer service, and safety code set forth in Chapters 4901:1-21 and/or 4901:1-10 of the Administrative Code and commission orders issued thereunder.
- (B) This chapter also governs customer service, reliability, and safety proceedings of the public utilities commission of Ohio to:
- (1) Investigate and determine an electric utility's or competitive retail electric service provider's compliance with Chapters 4901:1-21 and/or 4901:1-10 of the Administrative Code and commission orders issued thereunder~~;~~.
 - (2) Review settlement agreements and approve stipulations by the staff and the electric utility or competitive retail electric service provider~~;~~.
 - (3) Issue and enforce compliance orders~~;~~.
 - (4) Assess forfeitures~~; and~~.
 - (5) Direct the attorney general to seek enforcement of commission orders, including orders authorizing forfeitures, and appropriate remedies in court to protect the public safety, reliability, and customer service.

(C) As used in this chapter:

- (1) "Commission" means the public utilities commission of Ohio.
- (2) "Competitive retail electric service provider" means a provider of competitive retail electric service, subject to certification under section 4928.08 of the Revised Code.

(3) "Electric utility" includes electric distribution utilities, as that term is defined in division (A)(6) of section 4928.01 of the Revised Code, and electric transmission owners.

(4) "Staff" means the commission staff or its authorized representative.

4901:1-23-02 **Staff notice of probable noncompliance, proposed corrective action, and proposed forfeiture.**

- (A) After an inspection, investigation, or complaint, a staff notice of probable noncompliance may be issued. The staff notice of probable noncompliance may be issued with a proposed corrective action and/or a proposed forfeiture.
- (B) The staff may issue an amended notice of probable noncompliance, proposed corrective action, or proposed forfeiture at any time prior to the commencement of a compliance proceeding or other commission proceeding brought pursuant to rule 4901:1-23-05 of the Administrative Code, in order to modify or include additional probable noncompliance or violations, facts, proposed forfeitures, and proposed compliance orders. Once the commission initiates a compliance or other proceeding pursuant to rule 4901:1-23-05 of the Administrative Code, this rule does not prevent the staff during the course of such proceeding, from seeking a finding of violations not listed in the staff notice or amended staff notice of probable noncompliance (or rescinding or refraining from seeking a finding of violations) or from seeking a corrective action or proposed forfeiture that varies from previous staff notices issued under this rule, provided that the staff's proposed findings and/or violations relate to the same incident, type of incident, investigation, or audit(s).
- (C) Any staff notice of probable noncompliance, proposed corrective action, proposed forfeiture, or amendments thereto shall be served pursuant to rule 4901:1-23-03 of the Administrative Code.

4901:1-23-03 **Service of staff notices of probable noncompliance, proposed corrective action, and proposed forfeiture.**

- (A) Staff notices of probable noncompliance, proposed corrective actions, proposed forfeitures, and amendments thereto under rule 4901:1-23-02 of the Administrative Code and investigative reports under rule 4901:1-23-05 of the Administrative Code shall be served on the electric utility or competitive retail electric service (CRES) provider by certified United States mail. Service is effective upon receipt by any employee, agent of, or person designated by the electric utility; or ~~competitive retail electric service~~ CRES provider. Unless otherwise provided in this paragraph, service upon an electric utility or ~~competitive retail electric service~~ CRES provider shall be made at the address designated as the service address in the company's most recent annual financial report, in its certification application, or certification renewal application.
- (B) Each electric utility ~~company~~ or ~~competitive retail electric service~~ CRES provider shall provide the commission with ~~the company's or provider's~~ its current service address. If the service

address has changed since the most recent annual report was submitted to the commission, or the service address or business address has not been disclosed to the commission, service shall be made at any business address known to the commission.

- (C) If the service envelope is returned with an endorsement showing failure of delivery, then service may be made by ordinary United States mail and is effective on the date of mailing.

4901:1-23-04 **Settlement agreements and stipulations.**

- (A) If staff and the electric utility or ~~competitive retail electric service~~ (CRES) provider reach agreement regarding ~~any of the following: The~~ the violation of a rule within this chapter; or Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, the violation of a commission order; a proposed corrective action or remedy; or the amount of a forfeiture or other payment, ~~- then~~ the agreement must be reduced to writing in a settlement agreement. Such agreement shall be signed by an officer of the company or its attorney and the assistant attorney general who serves as legal counsel for the ~~commission~~ staff. Except as otherwise provided in paragraph (B) of this rule, the settlement agreement shall not be effective until both of the following have occurred:
- (1) The stipulation is filed with the commission for approval pursuant to a compliance or other proceeding; ~~and~~.
 - (2) The stipulation is approved by and made the order of the commission.
- (B) If the settlement agreement provides for the payment of a forfeiture or other payment by an electric utility or ~~competitive retail electric service~~ CRES provider of ~~one-ten~~ thousand dollars or less, the agreement shall be deemed accepted by the commission and fully enforceable upon the electric utility or ~~competitive retail electric service~~ CRES provider upon its execution.
- (C) Unless contained in or otherwise provided in a stipulation, no statement or conduct during settlement negotiations is admissible in any commission proceeding regarding the noncompliance.
- (D) Where an electric utility or competitive retail electric service provider has demonstrated to the staff's satisfaction, as confirmed in writing from the ~~commission's~~ director of the ~~consumer services~~ commission's service monitoring and enforcement department or the director of the commission's utilities department or his/her designee, that the violation(s) listed in the staff notice (or amended staff notice) of probable noncompliance or investigative report has been corrected and where the company submits full payment of the proposed forfeiture prior to the execution of a written settlement agreement or final commission order, the violation(s) listed in such staff notice of probable noncompliance or investigative report shall only be considered by the commission as part of the company's history of violations in determining the appropriate forfeiture or corrective action for any future violation. If a company pays a proposed forfeiture of

more than one thousand dollars without executing a written settlement agreement, the payment shall be fully effective when approved by and made the order of the commission.

4901:1-23-05 **Commission proceedings.**

- (A) The commission may initiate a compliance or other proceeding upon its own initiative, or after an incident has occurred, after a complaint is filed pursuant to section 4905.26 of the Revised Code, or after a staff notice of probable noncompliance is served.
- (B) The commission shall conduct such compliance or other proceedings in accordance with Chapter 4901-1 of the Administrative Code.
- (C) Unless otherwise ordered by the commission or an attorney examiner assigned to the proceeding, the staff shall file with the commission and serve upon the electric utility or competitive retail electric service provider a written report of investigation (investigative report) in each proceeding, within forty-five days after the commission issues an entry initiating a compliance proceeding. The investigative report shall present:
 - (1) The findings on any alleged noncompliance specified in any staff notice or amended staff notice, which may include:
 - (a) Noncompliances not included in any staff notice or amended staff notice, provided that such additional noncompliances relate to the same incident, investigation, or safety audit(s) referenced in the initial or amended staff notice~~;~~.
 - (b) Staff's findings on the electric utility or competitive retail electric service provider's practices and policies~~;~~ ~~and~~.
 - (2) Staff's recommendations for commission action.
- (D) The commission shall hold an evidentiary hearing on all proceedings initiated under this rule. The hearing may include evidence on the issues of proposed corrective action, compliance orders issued by the commission, forfeitures, enforcement of a commission order, and other remedies.
- (E) If, after a hearing, the commission finds an electric utility or competitive retail electric service provider has violated or is violating Chapter 4928. of the Revised Code, or Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, this chapter, or any order adopted thereunder, the commission, by order:
 - (1) Shall require the electric utility or competitive retail electric service provider to comply with Chapter 4928. of the Revised Code, Chapter 4901:1-21 or 4901:1-10 of the Administrative Code, this chapter, or any commission order thereunder, and to undertake corrective action necessary to protect the public safety, reliability, and customer service. The commission is

not restricted in the making of the compliance order by the terms of any proposed corrective action and/or forfeiture by the staff~~;~~.

- (2) May assess forfeitures upon an electric utility or competitive retail electric service provider of not more than ~~one-ten~~ thousand dollars for each day of each violation~~;~~.
- (3) May direct the attorney general to seek enforcement of commission orders, including orders authorizing forfeitures, and appropriate remedies in court~~;~~ ~~and~~.
- (4) May determine other appropriate remedies to protect the public safety, reliability, and customer service.

4901:1-23-06 **Payment of forfeitures and other payments.**

- (A) All forfeitures and other payments shall be paid by certified check or money order made payable to "Treasurer, State of Ohio," and shall be mailed or delivered to:

"Public ~~utilities~~ Utilities Commission of Ohio

Fiscal Division

180 East Broad Street, ~~tenth floor~~ Tenth Floor

Columbus, Ohio 43215-3793"

- (B) All instruments of payment shall contain the identifying number of the violation/staff notice for which payment is tendered.
- (C) No electric utility or competitive retail electric service provider may recover any forfeiture, or other payment in any pending or subsequent proceeding before the commission.