

**MEMORANDUM**

TO: Angela Hawkins, Legal Director, Public Utilities Commission of Ohio

FROM: Mark Hamlin, Director of Regulatory Policy

DATE: September 25, 2013

RE: **CSI Review Electric Companies – (OAC Chapter 4901:1-10)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of 33 rules being proposed by the Public Utilities Commission of Ohio (PUCO) in accordance with the five-year review required by ORC 119.032. The Commission is proposing amendments to 22 of the rules, and the remaining 11 are being proposed with no changes. The rules were initially submitted to the CSI Office on November 7, 2012 and comments were accepted through February 6, 2013. On July 10, 2013, the Commission proposed additional amendments addressing issues related to advanced meters and extended the comment period through August 16, 2013. A total of 49 comments were submitted by 22 different commenters.

Chapter 4901:1-10 governs a wide range of activities conducted by electric utilities and transmission owners, ranging from minimum customer service levels to performance and reliability of electric service and procedures related to connection and disconnection of service. Because the rules are so comprehensive and are fairly prescriptive in many areas, most provisions in the rules have an adverse impact to business in terms of costs to comply with the specific requirements as well as various recordkeeping and reporting requirements. However, the BIA submitted by the PUCO justifies the rules as being implemented to comply with the policies of the State of Ohio, as outlined in statute, related to the distribution and availability of electricity to customers. In addition, the PUCO points out that participation in the regulatory process is an accepted business practice for electric utilities. Therefore, they are already equipped to comply with the regulations and the changes proposed in this rule package should not require the expenditure of additional resources to comply.

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During the rule review process, the PUCO proposed additional amendments to this rule package related to advanced meter programs and provided additional opportunity for stakeholders to comment on these provisions. Advanced meters allow utilities to use digital technology to track customer usage without requiring a manual read. As noted in comments submitted, advanced meters provide more precise usage information that allows utilities to more accurately bill consumers, educate customers on their usage to promote energy efficiency, receive more complete and detailed information about outages, and save money by reducing the need for manual meter reading. Some utilities have initiated advanced meter programs among their service areas in Ohio.

Some customers have expressed concerns about advanced meters related to privacy issues as well as health and safety concerns. To balance the goals of utilities implementing advanced metering with customer concerns, the proposed rules create a mechanism for customers to opt out of an advanced metering program. However, the rules allow the utilities to impose tariffs to ensure that excess costs created by a customer's choice to opt out are borne by that customer. These portions of the rule package generated concerns from every aspect of the issue – from utilities encouraging the Commission to reject any opt-out provisions; to utilities suggesting that because advanced metering programs are not required by statute, any rules addressing the issue are premature; to consumer advocates arguing that customers should not be required to absorb additional costs as a result of their decisions to opt out.

With regard to the provisions of the rules related to advanced metering and customer opt-out decisions, the PUCO has defined a public policy that allows for the benefits of advanced metering without imposing the requirement on utilities and preserving some degree of customer choice. As such, the proposed rules strike an appropriate balance and justify any adverse impact to business. With regard to the broader rule package that governs a range of electric utility operations, the overall purpose of the regulations also justifies the adverse impact to business. As with any regulatory scheme that is as detailed and prescriptive as this one, stakeholders made a number of very specific suggestions to improve the effectiveness and/or reduce the impact of the rules. The CSI Office encourages the PUCO to carefully consider these suggestions and make changes where appropriate, but the nature of these comments do not affect the overall determination that the purpose of the rules justifies the adverse impact to businesses.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the PUCO should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.