

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)

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Regulation/Package Title: Electric Utility Emergency Plans and Coordination

Rule Number(s): Ohio Adm.Code Chapter 4901:1-10-08

Date: February 10, 2016

Rule Type:

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The proposed revisions to Ohio Adm.Code 4901:1-10-08 are being proposed in response to 2014 Sub.S.B. No. 310 (S.B. 310), which enacted R.C. 4928.112. S.B. 310 requires the Commission to adopt rules that provide in the event of an interruption of electric service during a period of emergency or disaster, an electric distribution utility's service restoration plan shall give priority to hospitals that are customers of the electric distribution utility. Additionally, S.B. 310 requires that, if requested by a hospital that is its customer, an electric distribution utility shall confer at least biennially with that hospital regarding power quality issues and concerns related to the utility's facilities, including voltage sags, spikes, and harmonic disturbances, in an effort to minimize those events or their impacts on the hospital.

The adoption of these revisions will ensure that hospitals receive priority in the event of an interruption of electric service. However, the Commission notes that service restoration plans are reviewed by the Commission's Staff and already consider hospitals critical facilities for outage response and restoration of services. The revisions to the rule will provide additional authority for the Commission to ensure that hospitals are prioritized in the event of an interruption of electric service during a period of emergency or disaster.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

The amendments to the rules in Ohio Adm.Code Chapter 4901:1-10-08 are in response to specific statutory requirements set forth in S.B. 310, which enacted R.C. 4928.112. Additional statutory authority for Ohio Adm.Code 4901:1-10-08 includes R.C. 4905.22, 4905.04, 4928.06, and 4928.11.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No. The proposed revisions to Ohio Adm.Code 4901:1-10-08 are being proposed in accordance with the statutory directives found in S.B. 310 and are not intended to implement any federal requirements or to enable the state to obtain or maintain approval to enforce any federal law or participate in any federal program.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The regulation does not contain provisions specifically required by the federal government. The rationale for the rules is to implement the statutory provisions adopted by the General Assembly in R.C. 4928.11 by S.B. 310.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rules in Ohio Adm.Code 4901:1-10-08 establish the requirement for electric utilities to maintain an emergency plan that describes the procedures the electric utility uses to move from its normal operations to each stage or level of outage response and restoration of services. Additionally, the rule provides that the electric utilities' emergency plans shall be available to the Commission and the Commission's outage coordinator. This regulation is necessary to ensure that in the event of an emergency or disaster, electricity is properly restored such that critical facilities, which are facilities such as police departments, fire departments, hospitals, and countywide 9-1-1 systems are prioritized for electric service restoration.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Commission will measure the success of the regulation by reviewing the emergency plans of each of the electric utilities. Additionally, the Commission monitors outage duration and outage frequency across the state of Ohio. The revisions to Ohio Adm.Code 4901:1-10-08 adopt rules to implement what the Commission already requires; that hospitals be prioritized in the event of an interruption of service during a period of emergency or disaster.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Commission ordered a workshop be held for all interested parties to provide input on proposed changes to Ohio Adm.Code 4901:1-10-08 on January 7, 2016, at the offices of the Commission. Copies of the Entry scheduling the workshop were sent to (a) all regulated electric distribution utility companies, (b) the Ohio Consumers' Counsel, (c) the Ohio Partners for Affordable Energy (OPAE), (d) CRES providers, and (e) any other interested persons of record. The workshop was held with multiple parties providing suggestions and input on the existing rules.

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8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Commission ordered a workshop be held for all interested parties to provide input on proposed changes to Ohio Adm.Code 4901:1-10-08 on January 7, 2016, at the offices of the Commission. Additionally, the Commission is issuing the proposed revisions to Ohio Adm.Code 4901:1-10-08 for comments and reply comments from all interested parties.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was taken into account. In adopting the proposed revisions to the rule, the Commission's Staff took into account S.B. 310, as well as the feedback from stakeholders at the workshop.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Commission did not consider regulatory alternatives. No regulatory alternatives were considered because the rules were drafted strictly to bring the Commission's rules into accordance with the directives of S.B. 310.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

No performance based regulations were considered. These were not considered because the proposed rules were drafted specifically to bring the Commission's rules into compliance with S.B. 310.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Commission has reviewed other Ohio regulations and found no duplicate. Furthermore, the directives of S.B. 310 require the specific implementation of these revisions.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Commission's plan for implementation of the proposed rules is for the electric distribution utilities to file changes to their emergency plans, and for the Commission's Staff to review the emergency plans of the electric utilities to ensure that hospitals are prioritized and that they have the biennial opportunity to confer with their electric utility.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The scope of the business community impacted by the proposed rule is the electric distribution utilities and hospitals that are customers of the electric distribution utilities.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The proposed revisions were drafted in an effort to minimize any adverse impact on business, while implementing the provisions of R.C. 4928.11 and promoting the policies of the state of Ohio in R.C. 4928.02. There are no license fees, fines, or fee schedules contained in the rule. However, the rule requires each electric utility to maintain an emergency plan and to have policies and procedures in place for the purpose of restoring electric service in the event of an outage during a period of emergency or disaster.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative *business*." Please include the source for your information/estimated impact.

The expected adverse impact resulting from Ohio Adm.Code 4901:1-10-08 and the proposed revisions to the rule can be quantified as a matter of hours necessary to revise the electric utilities' emergency plans. However, the Commission notes that the electric utilities' emergency plans already provide hospital priority. Accordingly,

sine the electric utilities' emergency plans already provide hospital prioritization during an interruption of service, there may not be any adverse impact.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission does not believe that these rules provide an adverse impact on business, and if any adverse impact does exist, it is justified by the regulatory requirement to comply with the R.C. 4928.112. Additionally, the Commission has determined that R.C. 4928.112 requires it to adopt rules that implement the requirements enacted in S.B. 310. The proposed revisions were drafted in an effort to minimize any adverse impact on business while complying with the specific statutory directives of the General Assembly set forth in S.B. 310.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. The rules do not provide any exemptions or alternative means of compliance. S.B. 310 requires specifically that the Commission adopt rules to carry out R.C. 4928.112. An exemption or alternative means of compliance would be contrary to the statute.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The proposed revisions to Ohio Adm.Code 4901:1-10-08 are specifically intended to carry out the statutory directives made by S.B. 310. The Commission will not seek to recover administrative fines or civil penalties on the electric utilities for paperwork violations. The Commission notes that it believes the requirements of R.C. 4928.112 are already included in the electric utilities' emergency management plans; therefore, the Commission believes the regulation has already been implement. However, the Commission will continue to exercise its authority to ensure that the regulation is complied with and that the electric utilities' emergency management plans continue to provide for the prioritization of hospitals. Additionally, the Commission will ensure that hospitals have the biennial opportunity to confer with their electric utility, as required by R.C. 4928.112.

18. What resources are available to assist small businesses with compliance of the regulation?

Commission Staff works with small businesses to ensure compliance with the rules. In Commission Case No. 15-2053-EL-ORD, stakeholders and the general public, including small businesses, were invited to participate in a workshop to explain to Commission Staff potential revisions to the rules to decrease or eliminate any adverse impacts on business. Small businesses may contact Commission Staff at any time and may comment on the proposed revisions during the open comment period once the proposed revisions have been released via Commission Entry.