



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Joseph Baker**, Director

### MEMORANDUM

**TO:** Jeff Jones, Public Utilities Commission of Ohio

**FROM:** Michael Bender, Business Advocate

**DATE:** March 8, 2023

**RE:** **CSI Review – Coal Emergency (OAC 4901:5-23-01, 4901:5-23-02, 4901:5-23-03, and 4901:5-23-04)**

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On behalf of Lt. Governor Jon Husted, 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 Commission as provided for in ORC 107.54.

### Analysis

This rule package consists of one new rule, two amended rules, one no-change rule, and one rescinded rule proposed by the Public Utilities Commission of Ohio (PUCO) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on January 17, 2023, and the public comment period was held open through January 27, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 17, 2023.

Ohio Administrative Code (OAC) 4901:5-23-01 specifies the definitions that pertain to coal suppliers and energy emergencies. OAC 4901:5-23-02 sets forth general standards for coal suppliers, the PUCO, and the PUCO's Fuel Source Advisory Council with respect to coal supply problems and shortages. The rule is amended to update language. OAC 4901:5-23-03 specifies when certain rules regarding energy emergencies may be implemented and enforced. The rule is amended to remove unnecessary language. OAC 4901:5-23-04 is rescinded and replaced by a new rule with the same number to update language, simplify curtailment requirements, and reduce and streamline reporting requirements. OAC 4901:5-23-04, the proposed new rule, outlines the actions to be taken by coal

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suppliers and the PUCO upon declaration of an energy emergency by the Governor of Ohio.

During early stakeholder outreach, the PUCO issued an Entry in Case No. 22-59-AU-ORD providing notice that it was conducting a workshop on March 10, 2022, via remote access technology, to receive feedback from stakeholders and the general public regarding its review of OAC 4901:5-23. The Entry was served upon all regulated electric and natural gas companies, ReliabilityFirst Corporation, PJM Interconnection, LLC, the Ohio Consumers' Counsel, the Ohio Coal Association, the Ohio Gas Association, Ohio Rural Electric Cooperatives, Inc., the Ohio Department of Development Office of Energy and Redevelopment, the Ohio Electric Utility Institute, the Ohio Propane Gas Association, the Ohio Petroleum Marketers & Convenience Store Association, the Ohio Oil and Gas Association, the Ohio Petroleum Council, the Ohio Emergency Management Agency, Ohio Homeland Security, the Ohio Trucking Association, the Ohio Railroad Association, the Ohio Telecom Association, the Ohio Cable Telecommunications Association, the Ohio Manufacturers' Association, the Ohio Municipal League, the Ohio Environmental Council, the Ohio State Bar Association, the Legal Aid Societies of Cleveland, Columbus, Cincinnati, Dayton, and Toledo, and the PUCO's electric-energy, gas-pipeline, and transportation listservs. No comments were offered by the stakeholders who attended the workshop. The PUCO then sought public comments from October 5-28, 2022, and later during the CSI public comment period. No comments were received during these public comment periods.

The business community impacted by the rules includes coal suppliers. The adverse impacts created by the rules include curtailment requirements as well as requirements concerning consumer notification and reporting information to the PUCO. According to the PUCO, the adverse impacts in terms of time and expense would in most instances be small. Furthermore, the PUCO stresses that the adverse impacts would only apply in the event of an actual or imminent fuel emergency. The PUCO states that the adverse impacts to business are justified to fulfill statutory requirements, protect public health and safety, and prevent unnecessary or avoidable damage to property during an energy emergency.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.