

Attachment B  
 Chapter 4901:1-19 Ohio Adm.Code  
 Natural Gas Alternative Rate Plan  
 and Exemption Rules  
 Case No.: 17-1945-GA-ORD  
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# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

**Agency Name:** Public Utilities Commission of Ohio

**Regulation/Package Title:** Natural Gas Alternative Rate Plan and Exemption Rules

**Rule Number(s):** 4901:1-19-01, 4901:1-19-02, 4901:1-19-03, 4901:1-19-04, 4901:1-19-05,  
4901:1-19-06, 4901:1-19-07, 4901:1-19-08, 4901:1-19-09, 4901:1-19-10,  
4901:1-19-11, 4901:1-19-12, 4901:1-19-13, 4901:1-19-14, and 4901:1-19-15

**Date:** June 13, 2018

**Rule Type:**

<b>New</b>	<b>X 5-Year Review</b>
<b>Amended</b>	<b>Rescinded</b>

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**

1. Please briefly describe the draft regulation in plain language. Please include the key provisions of the regulation as well as any proposed amendments. Ohio Adm.Code Chapter 4901:1-19 governs the filing, consideration, and implementation of applications made

pursuant to R.C. 4929.04 to exempt any commodity sales service or ancillary service of a natural gas company from provisions of R.C. Chapters 4905, 4909, and 4935; the filing and consideration of an application by a natural gas company pursuant to R.C. 4929.04 to exit the merchant function; and the filing and consideration of an application made by a natural gas company pursuant to R.C. 4929.05 to request approval of an alternative rate plan. The proposed changes to this chapter include both substantive and non-substantive revisions intended to improve clarity, streamline the rules and attendant processes, simplify and coordinate filing requirements, and update obsolete language.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.** R.C. 4929.10.
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 rules do not implement a federal requirement and are not 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.
4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** These rules do not exceed any federal requirement.
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 purpose of this regulation is to provide a clear and consistent process for the filing and review of applications made pursuant to R.C. 4929.04 to exempt any commodity sales service or ancillary service of natural gas companies from provisions of R.C. Chapters 4905, 4909, and 4935; applications by natural gas companies pursuant to R.C. 4929.04 to exit the merchant function; and applications made by natural gas companies pursuant to R.C. 4929.05 to request approval of an alternative rate plan. Additionally, R.C. 4929.10 requires the Commission to adopt rules to carry out R.C. Chapter 4929.
6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** The PUCO will measure the success of this regulation by the Commission's ability to review and approve or disapprove an application for an exemption, to exit the merchant function, or for an alternative rate plan in a timely and thorough manner.

**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.*** Under Case No. 17-1945-GA-ORD, the Commission conducted a workshop at its offices to receive feedback from interested stakeholders and the general public. The entry providing notice of the workshop was served upon all regulated natural gas companies, pipeline companies, certified retail natural gas service suppliers, the Ohio Gas Association, Ohio Petroleum Council, the Ohio Oil and Gas Association, and Ohio Consumers' Counsel. Representatives of numerous interested stakeholders attended the workshop.
- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** Several local distribution companies jointly submitted written proposed revisions and selected two representatives who provided comments on the joint proposals. The proposed revisions address Ohio Adm.Code 4901:1-19-03, 4901:1-19-05, 4901:1-19-06, 4901:1-19-07, 4901:1-19-08, and 4901:1-19-09. No other feedback was offered at the workshop. Commission Staff considered all of the recommendations offered in the joint proposed revisions. Most, but not all, of the joint proposed revisions are reflected in these proposed rules.
- 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 provided or considered during this 5-year review of the rules.
- 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?** No alternative regulations were considered or recommended. The regulations contained in Ohio Adm.Code Chapter 4901:1-19 present, in many ways, market-based alternatives to fully-regulated natural gas pricing structures provided for within the Revised Code.
- 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 regulated stakeholders must use to achieve compliance.*** The Commission did not consider any performance-based regulations. The proposed rules are based upon the statutory requirements found in R.C. 4929.04 and R.C. 4929.05, neither of which provides for performance-based regulation.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** This chapter is unique in that the rules provide a procedure to allow natural gas utilities to pursue alternatives to traditional regulation and to permit natural gas marketers to propose alternative approaches that would further allow for market-driven pricing structure for natural gas. We are thus assured that there is no duplication with any existing regulation.
- 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.** PUCO Staff conducts a review of each application filed pursuant to this chapter to ensure that any application complies with the applicable filing requirements. Further, the Commission attorney examiner assigned to each application ensures that the process set forth in the rules for the Commission's review of the application is followed.

**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;**
  - b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
  - 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.*
- a. The business community impacted by this chapter of rules includes natural gas companies, as defined in R.C. 4929.01(G).
  - b. These rules impact the business community by requiring employer time for compliance with certain filing requirements, but also provide procedures through which natural gas companies can pursue alternative options to traditional regulation.
  - c. The proposed rules place no additional compliance requirements beyond the existing rules, but, instead, provide additional flexibility and streamline the application procedure.

- 15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** Commission Staff believes that the need for clear and consistent filing requirements and procedures for thorough review of applications filed pursuant to R.C. 4929.04 and R.C. 4929.05 justifies the continued compliance requirements contained in the existing rules. The proposed changes present no additional adverse impact on the identified business community.

### **Regulatory Flexibility**

- 16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** Yes, existing Ohio Adm.Code 4901:1-19-04, which governs exemptions filed under R.C. 4929.04, requires that a hearing be conducted on an application filed by a natural gas company with fifteen thousand or more customers. However, holding a hearing upon an application by a natural gas company with fewer than fifteen thousand customers is not required; instead, a hearing is within the Commission's discretion.
- 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?** There are no fines and penalties imposed under this chapter; therefore, R.C. 119.14 is not applicable.
- 18. What resources are available to assist small businesses with compliance of the regulation?** The rules, application forms, and other applicable regulations are accessible on the natural gas industry page on the Commission website. All applicants, large and small, are permitted to electronically file applications with the PUCO via the website. Additionally, the proposed revisions allow all applicants to provide copies of an application by electronic service where feasible and consented to by the party requesting the application. The PUCO also produces an apples-to-apples chart that enables small businesses that wish to shop for a marketer to compare the prices offered by various marketers making offers in that service area. This ensures that small business owners have access to full information.