

Attachment B
Business Impact Analysis
Case No. 18-1189-EL-ORD
Chapter 4901:1-36 (Transmission Cost
Recovery Riders)
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CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)
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Regulation/Package Title: Ohio Adm.Code Chapter 4901:1-36 /
Electric Transmission Cost Recovery Riders

Rule Number(s): 4901:1-36-01, 4901:1-36-02, 4901:1-36-03,
4901:1-36-04, 4901:1-36-05, 4901:1-36-06

Date: June 19, 2019

Rule Type:
☐ New ☒ 5-Year Review ☒ No Change
☒ Amended ☐ Rescinded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

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 4901:1-36 establishes the means by which an electric utility may file an application for recovery of transmission and transmission-related costs through a transmission cost recovery rider (TCRR). If the rider is approved, each utility is required to

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update the rider annually. If, between annual updates, the utility determines that costs are or will differ substantially from what has been authorized from a prior application, the utility may file an interim application to adjust the rider.

The only amendment proposed for this chapter is a nonsubstantive change proposed by Staff to Ohio Adm.Code 4901:1-36-02, which concerns purpose and scope of the chapter, and Ohio Adm.Code 4901:1-36-04, which concerns limitations on the TCRR. Specifically, Staff proposes changing language which currently refers to an “independent transmission operator” to an “independent system operator.”

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

Rule	Statutory Authority – Ohio Revised Code
4901:1-36-01	4928.06
4901:1-36-02	4928.06
4901:1-36-03	4928.06
4901:1-36-04	4928.06
4901:1-36-05	4928.06
4901:1-36-06	4928.06

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.

This chapter does not implement a federal requirement, nor is it being amended to enable Ohio to obtain or maintain approval to administer or enforce a federal law.

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

Not applicable.

- 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)?**

R.C. 4928.143(B)(2)(g) includes certain provisions relating to transmission, ancillary, congestion, or any related service required for the standard service offer, including provisions for the recovery of any cost of such service that an electric distribution utility incurs to be included in an application for approval of electric security plan. The purpose of this chapter, as stated in Ohio Adm.Code 4901:1-36-02, is to provide a framework for an electric utility to recover, through a reconcilable rider on the electric utility's distribution rates, all transmission and transmission-related costs, imposed on or charged to the utility by the Federal Energy Regulatory Commission (FERC) or a regional transmission organization, independent system operator, or similar organization approved by FERC.

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

This chapter fulfills a statutory requirement through the establishment of rules for Commission approval of an electric utility's electric transmission cost recovery rider, pursuant to R.C. 4928.143. The success of this chapter should be evaluated by the efficacy with which electric utilities are able to file, and obtain Commission approval of, appropriate rider applications. No alternatives or changes were proposed by any Ohio electric utility subject to these regulations.

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.***

Stakeholders were notified of the review of these rules in *In re the Review of Ohio Adm.Code Chapter 4901:1-36*, Case No. 18-1189-EL-ORD, Entry (October 24, 2018), that scheduled a workshop on November 8, 2018. Notice was served upon all investor-owned electric utilities and certified competitive retail electric service providers in Ohio, as well as all stakeholders subscribed to the Commission's electric-energy industry email list-serve.

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

The workshop was conducted on November 8, 2019, with comments provided by the Office of the Ohio Consumers' Counsel (OCC), the Ohio Manufacturers' Association Energy Group (OMA), and the Environmental Law and Policy Center (ELPC). Staff considered the proposals and concluded that current language in this chapter and in the respective tariff of an electric distribution utility already addresses OCC's concerns. Regarding OMA's suggestion, Staff contends that Ohio Adm.Code 4901:1-36-04(B), which states that the transmission cost recovery rider shall be avoidable by all customers that choose alternative generation suppliers, is presently being waived when appropriate. Staff also states that current language does not prohibit an electric distribution utility from proposing alternative rate designs, a matter of concern to OMA and ELPC.

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?

Not applicable.

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?

This chapter prescribes the requirements for an electric utility's application for approval of an electric transmission recovery cost rider, pursuant to R.C. 4928.143. No alternatives have been proposed by any Ohio electric utility subject to these regulations.

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.*

This chapter prescribes the requirements for an electric utility's application for approval of an electric transmission recovery cost rider, pursuant to R.C. 4928.143. No alternatives were proposed by any Ohio electric utility subject to these regulations.

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

There are no other Ohio agencies responsible for the supervision and regulation of public utilities, under R.C. Chapter 4928 concerning competitive retail electric service.

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 will issue an Entry seeking formal written comments and/or reply comments from stakeholders in *In re the Review of Ohio Adm. Code Chapter 4901:1-36*, Case No. 18-1189-EL-ORD, Entry (June 19, 2019). Following the comment period specified in the entry, the Commission will issue a finding and order considering any proposed rules changes. If applicable, stakeholders may file applications for rehearing of the Commission's decision, pursuant to R.C. 4901.10. As noted above, all Ohio investor-owned electric utilities and industry stakeholders have been notified of the opportunity to participate in this proceeding.

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;

These rules only apply to an Ohio electric utility filing an application for approval of an electric transmission recovery cost rider, pursuant to R.C. 4928.143.

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

The Commission does not charge any fees for the filing of applications to approve electric transmission recovery cost riders, pursuant to R.C. 4928.143, although electric utilities presumably incur administrative costs in the filing of these applications.

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*

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estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Any adverse impacts of these only apply to an Ohio electric utility filing an application for approval of an electric transmission recovery cost rider, pursuant to R.C. 4928.143. An electric utility would presumably incur administrative costs in filing of an application to approve its transmission recovery cost rider.

The cost of Ohio Adm.Code 4901:1-36-03 involve the preparation of the application for a transmission cost recovery rider, and annual updates of the data used for approval of the rider. Paragraph C provides that the Commission could hire consultants to conduct prudence and/or financial reviews, with the costs billed to the utility, but such costs would be recoverable through the rider. Paragraph E would also involve some administrative compliance costs if the filing of an interim application becomes necessary to reflect costs that are substantially different than the amounts authorized as a result of the utility’s prior application.

Costs relating to Ohio Adm.Code 4901:1-36-05 may include a hearing for approval of the application, if necessary. Costs relating to Ohio Adm.Code 4901:1-36-06 involve the time needed to provide, on a biennial basis, additional information detailing the electric utility’s policies and procedures for minimizing any costs in the rider, when the utility has control over such costs. In addition, there are costs regarding the time to comply with staff’s proposal that, on a quarterly basis, each electric utility that seeks recovery of transmission and transmission-related costs must file with Staff a report listing cost components, cost amounts, and customer revenue.

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

As noted above, these rules were adopted pursuant to R.C. 4928.143 to allow electric utilities to recover appropriate costs through an electric transmission recovery cost rider. No alternatives have been proposed by the Ohio electric utilities.

Regulatory Flexibility

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

No. These rules do not apply to small businesses.

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?

These rules do not apply to small businesses.

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

These rules do not apply to small businesses.