

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)  
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Regulation/Package Title: Administrative Provisions and Procedure

Rule Number(s): 4901-1-01, 4901-1-02, 4901-1-03, 4901-1-04, 4901-1-05, 4901-1-06,  
4901-1-07, 4901-1-08, 4901-1-09, 4901-1-10, 4901-1-11, 4901-1-12, 4901-1-13, 4901-1-14,  
4901-1-15, 4901-1-16, 4901-1-17, 4901-1-18, 4901-1-19, 4901-1-20, 4901-1-21, 4901-1-22,  
4901-1-23, 4901-1-24, 4901-1-25, 4901-1-26, 4901-1-27, 4901-1-28, 4901-1-29, 4901-1-30,  
4901-1-31, 4901-1-32, 4901-1-33, 4901-1-34, 4901-1-35, 4901-1-36, 4901-1-37, 4901-1-38

Date of Submission for CSI Review: 12/4/2019

Public Comment Period End Date: 1/17/2020

**Rule Type/Number of Rules:**

- |   |  |
|---|--|
| <input type="checkbox"/> New/___ rules                          | <input checked="" type="checkbox"/> No Change/3 rules (FYR? Yes) |
| <input checked="" type="checkbox"/> Amended/35 rules (FYR? Yes) | <input type="checkbox"/> Rescinded/___ rules (FYR?___)           |

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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.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☐ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

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

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

Ohio Administrative Code (“O.A.C.”) Chapter 4901-1 sets forth the administrative procedures for the PUCO, including procedures for pleadings, motions, depositions, and hearings.

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

Ohio Revised Code 4901.13

4. 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?

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

No.

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

Not applicable.

- 6. 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 public purpose of this Chapter is to set forth the procedures to govern proceedings before the PUCO.

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

The success of these regulations will be determined by the ability of the PUCO to continue to accomplish its statutory mandates provided in Ohio Revised Code Title 49.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. 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 PUCO opened the investigation of this Chapter on February 13, 2018, in Case No. 18-0275-AU-ORD. On May 24, 2018, the PUCO issued an entry notifying interested parties that it would hold a workshop on July 12, 2018 to gather comments from stakeholders. A copy of that entry was served on the Ohio Consumers' Counsel; Ohio Telecom Association; Ohio Trucking Association; Ohio Railroad Association; Ohio Gas Association; Ohio Electric Institute; Ohio Cable Telecommunications Association; Ohio Manufacturers' Association; Ohio Municipal League; the cities of Cincinnati, Cleveland, Columbus, Dayton, and Toledo; the chair of the Ohio State Bar Association Public Utilities Committee; Ohio Environmental Council; Legal Aid Societies of Cincinnati, Cleveland, Columbus, Dayton, and Toledo; Ohio Chamber of Commerce; Industrial Energy Users-Ohio; Ohio Partners for Affordable Energy; and Ohio Gas Marketers Group.

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

At the workshop held on July 12, 2018, a number of stakeholders attended. Columbia Gas of Ohio and Dominion Energy Ohio, as well as the Environmental Law and Policy Center, offered comments, some of which resulted in modifications to the draft rules.

**11. 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 used to develop the rule.

**12. 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?**

Ohio Revised Code 4901.13 allows the PUCO to adopt rules to govern its proceedings, which is what these regulations accomplish, therefore, no alternative regulations were considered.

**13. 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. Ohio Revised Code 4901.13 allows the PUCO to adopt rules to govern its proceedings, which is what these regulations accomplish, therefore, performance-based regulations were not considered.

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

Ohio Revised Code 4901.13 allows the PUCO to adopt rules to govern its proceedings and these are the rules adopted by the PUCO to accomplish this purpose. There are no duplicative rules in the O.A.C.

**15. 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.**

Chapter 4901-1 is specifically contemplated by Ohio Revised Code 4901.13 and has been in effect since the 1980's without complaints regarding inconsistent application. The regulated community has the opportunity to provide feedback if they feel these regulations are not applied consistently and predictably.

**Adverse Impact to Business**

**16. 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;**

Public utilities and other entities that participate in proceedings in front of the PUCO must abide by this Chapter.

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

This Chapter sets forth the procedures companies must follow when they participate in a proceeding before the PUCO and does not require specific expenditures.

Companies must devote time to participate in a proceeding in front of the PUCO and these rules govern the parameters of such proceedings.

**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.*

These rules have been in effect for decades and provide the rules governing proceedings in front of the commission. There are no additional adverse impacts.

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

Ohio Revised Code 4901.13 allows the PUCO to adopt rules to govern its proceedings and these are the rules adopted by the PUCO to accomplish this purpose. These rules do not create an adverse impact but serve to establish procedures for such proceedings.

### **Regulatory Flexibility**

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

These procedures apply uniformly to companies coming before the PUCO.

**19. 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 or penalties imposed by these regulations.

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

The PUCO works with small businesses to ensure compliance with the rules. PUCO staff is available to assist these businesses as necessary.