



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Jeffrey Jones, Public Utilities Commission of Ohio

FROM: Michael Bender, Business Advocate

DATE: April 18, 2024

RE: CSI Review – Competitive Retail Natural Gas Service (CRNGS) – Minimum Standards (OAC 4901:1-29-01, 4901:1-29-02, 4901:1-29-03, 4901:1-29-04, 4901:1-29-05, 4901:1-29-06, 4901:1-29-07, 4901:1-29-08, 4901:1-29-09, 4901:1-29-10, 4901:1-29-11, 4901:1-29-12, and 4901:1-29-13)

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This rule package consists of seven amended rules, five no-change rules, and one rescinded rule proposed by the Public Utilities Commission of Ohio (PUCO) as part of the statutory five-year review process.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 September 8, 2021, and the public comment period was held open through October 22, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 8, 2021. The PUCO issued its Finding and Order for this rule package on February 21, 2024, and finalized its determination on April 17, 2024.

Ohio Administrative Code (OAC) 4901:1-29-01 specifies definitions related to competitive retail natural gas service (CRNGS). OAC 4901:1-29-02 specifies that the rules in chapter apply to any CRNGS provider and to the services of natural gas companies as necessary to their implementation. Originally submitted as a no-change rule, the rule is amended to update language and remove a

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provision regarding compliance with applicable federal, state, and local laws. OAC 4901:1-29-03 specifies certain general provisions for retail natural gas suppliers and governmental aggregators with respect to their services, including prohibitions on deceptive practices, the disconnection of distribution service, and the authorization of changing a customer's supplier without prior approval among others. OAC 4901:1-29-04 requires the establishment and retention of records and data regarding compliance with the requirements of applicable PUCO rules. The rule is amended to remove natural gas companies from this chapter's requirements. OAC 4901:1-29-05 provides for the requirements and prohibitions for retail natural gas suppliers and governmental aggregators when conducting marketing and customer solicitation. OAC 4901:1-29-06 provides for the enrollment of customers by retail natural gas suppliers and government aggregators via mailing, facsimile, direct enrollment, telephone, and internet. The rule is amended to remove language concerning the actions by an incumbent natural gas company after the enrollment or rescinded enrollment of a customer with a retail natural gas supplier or government aggregator.

OAC 4901:1-29-07 requires each retail natural gas supplier and governmental aggregator to establish credit standards and allows them to require deposits or other demonstrations of credit from a customer as a condition of providing service. OAC 4901:1-29-08 provides for customer access to make inquiries and complaints and the requirements regarding the handling, investigation, and corrective measures of customer complaints by each natural gas supplier or governmental aggregator. The rule is amended to remove provisions regarding actions taken by natural gas companies. OAC 4901:1-29-09 prohibits what a retail natural gas supplier or governmental aggregator may do with customer account numbers or any customer information without the customer's consent. The rule is amended to remove provisions pertaining to natural gas companies. OAC 4901:1-29-10 provides for the arrangement, maintenance, administration, rescission, renewal, and termination of customer contracts with a retail natural gas supplier or opt-in governmental aggregator. Originally submitted as a no-change rule, the rule is amended to update language and remove a provision concerning unfair, deceptive, misleading, and unconscionable acts and practices. OAC 4901:1-29-11 provides for the information that must be disclosed by a retail natural gas supplier or opt-in governmental aggregator in a customer contract. OAC 4901:1-29-12 provides for the standards and requirements of customer billing from and payment to a retail natural gas supplier or governmental aggregator. Originally submitted as a no-change rule, the rule is amended to state that customer bills should highlight and provide a clear explanation of any changes in rates, terms, and conditions of service for two consecutive billing periods. OAC 4901:1-29-13 is rescinded due to its contents being moved to OAC 4901:1-13-14.

During early stakeholder outreach, the PUCO held a workshop on October 3, 2017, to give interested stakeholders and the public the ability to offer feedback on OAC 4901:1-29. Various stakeholders offered comments and recommendations, but they were not ultimately incorporated into the rules by the PUCO. During the CSI public comment period, the PUCO received comments from the Citizens'

Utility Board of Ohio, Interstate Gas Supply, Inc. (IGS), the Retail Energy Supply Association (RESA), Constellation New Energy Inc. and Constellation NewEnergy – Gas Division, LLC, Industrial Energy Users – Ohio, Energy Harbor LLC, the Ohio Consumers’ Counsel (OCC), SouthStar Energy Services LLC (SouthStar), Ohio Rural Electric Cooperatives, Inc., Mission:data Coalition, Columbia Gas of Ohio, Inc., the Northeast Ohio Public Energy Council (NOPEC), SFE Energy Ohio, Inc., Statewise Energy Ohio, Inc., the East Ohio Gas Company dba Dominion Energy Ohio (Dominion), the Ohio Power Company dba AEP Ohio, AEP Energy, Inc., as well as Reliant Energy Northwest LLC, Direct Energy Business Marketing LLC, Direct Energy Services LLC, XOOM Energy Ohio, LLC, Stream Ohio Gas & Electric, LLC, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, Green Mountain Energy Company, and Independence Energy Group LLC (collectively, the NRG Suppliers).

Many commenters, specifically RESA, SouthStar, IGS, AEP Ohio, Dominion, NOPEC, OCC, and the NRG Suppliers, requested that the PUCO improve consistency between competitive retail electric services and CRNGS rules. The PUCO assured the commenters that it would attempt to achieve further consistency between such rules in subsequent rulemaking. The PUCO noted that the previously granted partial waiver requests of certain TPV customer enrollment and consent provisions found in the rules would be extended until it issues an order addressing the TPV and/or enrollment requirements in later rulemaking. The PUCO rejected suggestions by commenters for changes that it considered to be outside the scope of the review but revised the rules to update language and eliminate duplicative or unnecessary requirements. The PUCO also made a technical correction.

The business community impacted by the rules includes retail natural gas suppliers and governmental aggregators. The adverse impacts created by the rules include the time and resources needed to develop and implement the standards and procedures, update technological systems to accommodate these rules, and train staff members to properly follow the procedures. The PUCO states that the adverse impacts to business are justified in order to establish the standards required by ORC 4929.22.

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.